

FILED

LUIS COSTILLO  
NAME

C-73437  
PRISON IDENTIFICATION/BOOKING NO.

P.O. BOX 5002  
ADDRESS OR PLACE OF CONFINEMENT

CALIPATRIA, CA 92233

Note: It is your responsibility to notify the Clerk of Court in writing of any change of address. If represented by an attorney, provide his name, address, telephone and facsimile numbers, and e-mail address.

2008 AUG -4 PM 12:17

CLERK, U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

CP

Fee Paid

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LUIS COSTILLO  
FULL NAME (Include name under which you were convicted)

Petitioner,

v.

L. SMALL, WARDEN (A)  
NAME OF WARDEN, SUPERINTENDENT, JAILOR OR AUTHORIZED  
PERSON HAVING CUSTODY OF PETITIONER

Respondent.

530

CASE NUMBER:

CV

08-5082 VBF (FMO)

To be supplied by the Clerk of the United States District Court

☐ AMENDED

PETITION FOR WRIT OF HABEAS CORPUS  
BY A PERSON IN STATE CUSTODY  
28 U.S.C. § 2254

PLACE/COUNTY OF CONVICTION \_\_\_\_\_  
PREVIOUSLY FILED, RELATED CASES IN THIS DISTRICT COURT  
(List by case number)

CV

CV

## INSTRUCTIONS - PLEASE READ CAREFULLY

1. To use this form, you must be a person who either is currently serving a sentence under a judgment against you in a California state court, or will be serving a sentence in the future under a judgment against you in a California state court. You are asking for relief from the conviction and/or the sentence. This form is your petition for relief.
2. In this petition, you may challenge the judgment entered by only one California state court. If you want to challenge the judgment entered by a different California state court, you must file a separate petition.
3. Make sure the form is typed or neatly handwritten. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. Answer all the questions. You do not need to cite case law, but you do need to state the federal legal theory and operative facts in support of each ground. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a legal brief or arguments, you may attach a separate memorandum.
5. You must include in this petition all the grounds for relief from the conviction and/or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

5. You must pay a fee of \$5.00. If the fee is paid, your petition will be filed. If you cannot afford the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out and sign the declaration of the last two pages of the form. Also, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account at the institution. If your prison account exceeds \$25.00, you must pay the filing fee.

6. When you have completed the form, send the original and two copies to the following address:

Clerk of the United States District Court for the Central District of California  
United States Courthouse  
ATTN: Intake/Docket Section  
312 North Spring Street  
Los Angeles, California 90012

LODGED

CLERK, U.S. DISTRICT COURT

AUG - 1 2008

CENTRAL DISTRICT OF CALIFORNIA

CV-69 (04/05)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY (28 U.S.C § 2254)

5 8 0 7 4 2

8/4/2008 1:16:27 PM Receipt #: 110032  
Paid by: JERESA CASTILLO  
5008-05082  
5008-006300  
Amount :  
Writ Habeas Corpus(1)  
N.O. Payment : P4556 / \$5.00  
Total Payment : 5.00  
5.00

015321

PLEASE COMPLETE THE FOLLOWING: (Check appropriate number)

This petition concerns:

1. ☐ a conviction and/or sentence.
2. ☐ prison discipline.
3. ☒ a parole problem.
4. ☐ other.

### PETITION

1. Venue

- a. Place of detention CSP-CALIPATRIA, CALIPATRIA, CALIFORNIA
- b. Place of conviction and sentence LOS ANGELES COUNTY

2. Conviction on which the petition is based (a separate petition must be filed for each conviction being attacked).

- a. Nature of offenses involved (include all counts): PETITIONER'S ACCOMPLICE (AND BROTHER, FRANK COSTILLO) WAS KILLED BY POLICE DURING AN ATTEMPTED ROBBERY. FIRST DEGREE, FELONY, MURDER
- b. Penal or other code section or sections: CAL. P.C. §187
- c. Case number: #A375051
- d. Date of conviction: SEPTEMBER 20, 1983
- e. Date of sentence: SEPTEMBER 20, 1983
- f. Length of sentence on each count: 25 YEARS TO LIFE, PLUS, CONCURRENT SENTENCE
- g. Plea (check one):
  - ☒ Not guilty
  - ☐ Guilty
  - ☐ Nolo contendere
- h. Kind of trial (check one):
  - ☐ Jury
  - ☐ Judge only

NOT APPLICABLE (N/A)

3. Did you appeal to the California Court of Appeal from the judgment of conviction? ☐ Yes ☒ No

If so, give the following information for your appeal (and attach a copy of the Court of Appeal decision if available):

- a. Case number: N/A
- b. Grounds raised (list each):
  - (1) N/A

- (2) \_\_\_\_\_  
(3) \_\_\_\_\_  
(4) \_\_\_\_\_  
(5) \_\_\_\_\_  
(6) \_\_\_\_\_ N/A

c. Date of decision: \_\_\_\_\_

d. Result \_\_\_\_\_  
\_\_\_\_\_ N/A

4. If you did appeal, did you also file a Petition for Review with the California Supreme Court of the Court of Appeal decision? ☐ Yes ☐ No

If so give the following information (and attach copies of the Petition for Review and the Supreme Court ruling if available):

a. Case number: \_\_\_\_\_ N/A

b. Grounds raised (list each):

- (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_  
(4) \_\_\_\_\_  
(5) \_\_\_\_\_  
(6) \_\_\_\_\_ N/A

c. Date of decision: \_\_\_\_\_

d. Result \_\_\_\_\_  
\_\_\_\_\_ N/A

5. If you did not appeal:

a. State your reasons ACCEPTED PLEA AGREEMENT  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Did you seek permission to file a late appeal? ☐ Yes ☐ No N/A

6. Have you previously filed any habeas petitions in any state court with respect to this judgment of conviction?

☒ Yes ☐ No PAROLE BOARD'S DECISION TO DENY PETITIONER PAROLE

If so, give the following information for each such petition (use additional pages if necessary, and attach copies of the petitions and the rulings on the petitions if available):

- a. (1) Name of court: SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
(2) Case number: BH004425  
(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): JANUARY 3, 2007  
(4) Grounds raised (list each):  
(a) SEE ATTACHED PETITION (ATT PET.), p.i., TABLE OF CONTENTS  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_  
(d) \_\_\_\_\_  
(e) \_\_\_\_\_  
(f) \_\_\_\_\_  
(5) Date of decision: MAY 29, 07, SEE ATTACHMENT-3, DENIAL ORDER  
(6) Result DENIED  
(7) Was an evidentiary hearing held? ☐ Yes ☒ No

- b. (1) Name of court: COURT OF APPEAL, STATE CALIFORNIA, 2ND APPELLATE DIST.  
(2) Case number: B205009  
(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): \_\_\_\_\_  
(4) Grounds raised (list each):  
(a) \_\_\_\_\_  
(b) SEE, ATT.PET., p.i., TABLE OF CONTENTS  
(c) \_\_\_\_\_  
(d) \_\_\_\_\_  
(e) \_\_\_\_\_  
(f) \_\_\_\_\_  
(5) Date of decision: \_\_\_\_\_, SEE, ATTACHMENT-2, DENIAL ORDER  
(6) Result DENIED  
(7) Was an evidentiary hearing held? ☐ Yes ☒ No

- c. (1) Name of court: THE SUPREME COURT OF CALIFORNIA  
(2) Case number: S160744  
(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): \_\_\_\_\_  
(4) Grounds raised (list each):  
(a) \_\_\_\_\_  
(b) SEE, ATT.PET., p.i., TABLE OF CONTENTS

- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_
- (f) SEE, ATT.PET., p.i, TABLE OF CONTENTS

(5) Date of decision: APRIL 9, 2008

(6) Result SUMMARY DENIAL, SEE, ATTACHMENT-1

(7) Was an evidentiary hearing held? ☐ Yes ☒ No

7. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than five grounds. Summarize briefly the facts supporting each ground. For example, if you are claiming ineffective assistance of counsel, you must state facts specifically setting forth what your attorney did or failed to do.

**CAUTION:** *Exhaustion Requirement:* In order to proceed in federal court, you must ordinarily first exhaust your state court remedies with respect to each ground on which you are requesting relief from the federal court. This means that, prior to seeking relief from the federal court, you first must present all of your grounds to the California Supreme Court.

a. Ground one: SEE, ATT.PET., p.i, TABLE OF CONTENTS

(1) Supporting FACTS: SEE, ATT.PET., p.1-11

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? ☐ Yes ☒ No
- (3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☒ Yes ☐ No
- (4) Did you raise this claim in a habeas petition to the California Supreme Court? ☐ Yes ☒ No

b. Ground two: SEE, ATT.PET., p.i, TABLE OF CONTENTS

(1) Supporting FACTS: SEE, ATT.PET., p.1-11

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? ☐ Yes ☒ No
- (3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☒ Yes ☐ No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? ☐ Yes ☒ No

c. Ground three: \_\_\_\_\_

(1) Supporting FACTS: \_\_\_\_\_

N/A

(2) Did you raise this claim on direct appeal to the California Court of Appeal? ☐ Yes ☐ No

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☐ Yes ☐ No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? ☐ Yes ☐ No

d. Ground four: \_\_\_\_\_ N/A

(1) Supporting FACTS: \_\_\_\_\_

N/A

(2) Did you raise this claim on direct appeal to the California Court of Appeal? ☐ Yes ☐ No

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☐ Yes ☐ No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? ☐ Yes ☐ No

e. Ground five: \_\_\_\_\_ N/A

(1) Supporting FACTS: \_\_\_\_\_

N/A

(2) Did you raise this claim on direct appeal to the California Court of Appeal? ☐ Yes ☐ No

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☐ Yes ☐ No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? ☐ Yes ☐ No

8. If any of the grounds listed in paragraph 7 were not previously presented to the California Supreme Court, state briefly which grounds were not presented, and give your reasons: \_\_\_\_\_

\_\_\_\_\_ N/A \_\_\_\_\_

9. Have you previously filed any habeas petitions in any federal court with respect to this judgment of conviction?

☐ Yes ☐ No

If so, give the following information for each such petition *(use additional pages if necessary, and attach copies of the petitions and the rulings on the petitions if available)*:

- a. (1) Name of court: \_\_\_\_\_ N/A \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: \_\_\_\_\_

(4) Grounds raised *(list each)*:

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

(d) \_\_\_\_\_

(e) \_\_\_\_\_

(f) \_\_\_\_\_ N/A \_\_\_\_\_

(5) Date of decision: \_\_\_\_\_ N/A \_\_\_\_\_

(6) Result \_\_\_\_\_

\_\_\_\_\_ N/A \_\_\_\_\_

(7) Was an evidentiary hearing held? ☐ Yes ☐ No N/A

- b. (1) Name of court: \_\_\_\_\_ N/A \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: \_\_\_\_\_

(4) Grounds raised *(list each)*:

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

(d) \_\_\_\_\_

(e) \_\_\_\_\_

(f) \_\_\_\_\_ N/A \_\_\_\_\_

(5) Date of decision: \_\_\_\_\_

(6) Result \_\_\_\_\_ N/A \_\_\_\_\_

(7) Was an evidentiary hearing held? ☐ Yes ☐ No N/A

10. Do you have any petitions now pending (i.e., filed but not yet decided) in any state or federal court with respect to this judgment of conviction? ☐ Yes ☒ No

If so, give the following information (and attach a copy of the petition if available):

(1) Name of court: N/A

(2) Case number:

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing):

(4) Grounds raised (list each):

(a)

(b)

(c)

(d)

(e)

(f) N/A

11. Are you presently represented by counsel? ☐ Yes ☒ No

If so, provide name, address and telephone number:

N/A

WHEREFORE, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding,

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on 08-08-08  
Date

Luis Castillo  
Signature of Petitioner

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**ATTACHMENT-1**

**(CALIFORNIA SUPREME COURT ORDER, DENIAL, 4-9-08)**

Court of Appeal, Second Appellate District, Div. 1 - No. B205009  
**S160744**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re LUIS CASTILLO on Habeas Corpus

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The petition for review is denied.

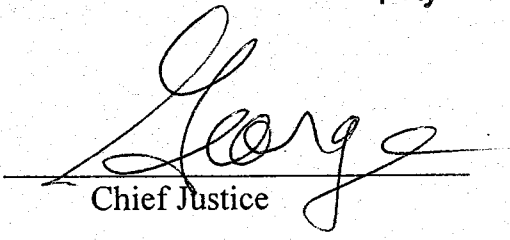
**SUPREME COURT  
FILED**

**APR - 9 2008**

**Frederick K. Ohlrich Clerk**

**Deputy**

---

  
**Chief Justice**

**ATTACHMENT-2**

**(COURT OF APPEAL ORDER, DENIAL, )**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re

LUIS CASTILLO,

on

Habeas Corpus.

B205009

(L.A.S.C. Nos. A375051, BH004425)

ORDER

COURT OF APPEAL - SECOND DIST.

FILED

JAN 25 2008

JOSEPH A. LANE Clerk

S. LUI Deputy Clerk

THE COURT\*:

The petition for writ of habeas corpus, filed January 17, 2008, has been read and considered.

The petition is denied.

---

\*MALLANO, Acting P. J.

VOGEL, J.

ROTHSCHILD, J.

Luis Castillo  
CDC:C-73437  
Calipatria State Prison  
P.O. Box 5002  
Calipatria, CA 92233

Case Number B205009  
Division 1

In re LUIS CASTILLO on Habeas Corpus.

**ATTACHMENT-3**  
**(SUPERIOR COURT ORDER, DENIAL, 5-29-07)**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES****DEPT 100**

Date: MAY 29, 2007  
 Honorable: PETER ESPINOZA  
 NONE

Judge J. PULIDO  
 Bailiff NONE

Deputy Clerk  
 Reporter

(Parties and Counsel checked if present)

BH 004425

In re,  
 LUIS CASTILLO,  
 Petitioner,  
 On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

**Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS**

The Court has read and considered petitioner's Writ of Habeas Corpus filed on January 3, 2007. Having independently reviewed the record, giving deference to the broad discretion of the Governor in parole matters, the Court concludes that the record contains "some evidence" to support the Governor's finding that petitioner is unsuitable for parole (Cal. Code Reg. Tit. 15, §2402; *In re Rosenkrantz* (2002) 29 Cal.4<sup>th</sup> 616, 667 (hereafter *Rosenkrantz*)).

Petitioner was received in the Department of Corrections on September 23, 1983 after a conviction for first-degree murder. He was sentenced to a term of thirty-five years to life. His minimum parole eligibility date was December 20, 2005. He was also convicted of several non-controlling offenses, including eight counts of attempted murder, five counts of assault with a deadly weapon on a peace officer, attempted murder of a peace officer, conspiracy to commit robbery.

The record reflects that on January 10, 1982, petitioner and two crime partners robbed a restaurant at gunpoint. Petitioner shot at the ceiling with a shotgun and robbed customers of money and jewelry. One of the customers was a security guard who was armed with a gun. Petitioner ordered the security guard to lie on the floor with his shotgun pressed to the guard's back while he searched for the gun. Upon finding the guard's gun, petitioner kicked the guard and handcuffed him to the manager at the end of the bar. Both were made to lie on the floor. Police arrived and found petitioner and his partners running across the parking lot to a car driven by petitioner's brother. As they left the parking lot, they fired several shots at the police officers. The police chased the car for approximately 1.5 miles at a high rate of speed before the driver lost control of the vehicle. During the chase, the robbers continued to shoot at the police and their vehicles, as well as a police helicopter that arrived in the area. The police officers returned fire and petitioner's brother was shot and killed during the exchange. Both of petitioner's crime partners were also shot and injured. Petitioner hid in a junkyard until he was discovered by a police dog. He was taken to a hospital and treated for dog bites.

The Board found petitioner unsuitable for parole after a parole consideration hearing held on November 17, 2005. Petitioner was denied parole for two years. The Board concluded that petitioner would pose an unreasonable risk of danger to society and a threat to public safety if released from prison at this time. The Board based its decision on several factors, including the commitment offense.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES****DEPT 100**

Date: MAY 29, 2007  
 Honorable: PETER ESPINOZA  
 NONE

Judge J. PULIDO  
 Bailiff NONE

Deputy Clerk  
 Reporter

(Parties and Counsel checked if present)

BH 004425

In re,

LUIS CASTILLO,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

The Board can properly rely upon the circumstances of the crime in deciding that petitioner is not presently suitable for parole. (*Rosenkrantz, supra*, 29 Cal.4<sup>th</sup> 616, 683.) The Court finds that there is some evidence to support the Board's parole denial because "the motive for the crime is inexplicable or very trivial in relation to the offense" (Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(E).) "To fit the regulatory description, the motive must be materially less significant (or more "trivial") than those which conventionally drive people to commit the offense in question, and therefore more indicative of a risk of danger to society if the prisoner is released than is ordinarily present." (*In re Scott* (2004) 119 Cal.App.4<sup>th</sup> 871, at 893.) In this case, the felony murder took place during the escape from a robbery. The Board was justified in concluding that "the motivation to obtain money" is materially less significant than those which conventionally drive people to commit murder. (*In re Honesto* (2005) 130 Cal.App.4<sup>th</sup> 81, 95.)

The Board also found that "multiple victims were attacked, injured or killed in the same or separate incidents." (Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(A).) Although only one person died during the commission of the crime, petitioner and his crime partners attacked many others. Petitioner injured the security officer at the restaurant when he kicked him while he was on the floor. The robbers also victimized the 125 patrons at the restaurant by robbing them at gunpoint. Additionally, they attacked several police officers by shooting at them and their vehicles as they led the police on a high speed chase.

There is some evidence that petitioner is not suitable for parole due to his previous history of violence. (Cal. Code Regs., tit. 15, §2402, subd. (c)(2).) He was convicted of over twenty counts of robbery with the use of a firearm for committing a series of armed robberies of markets and drug stores between August and October, 1981. During one of these armed robberies, one man was shot in the stomach, resulting in the loss of his intestine and spleen. Although petitioner denies being the shooter in that case, he admits that he was involved in several of the robberies and pled guilty to all. He was sentenced to 23 years and 8 months in prison for these robberies and was out on bail at the time of the commitment offense. The record also reflects that petitioner, on another occasion inflicted serious injury on a victim. (Cal. Code Regs., tit. 15, §2402, subd. (c)(2).) While in prison, petitioner was charged with stabbing another inmate, for which he could have received another 25 year to life sentence. However, he received only a CDC 115. Due to his prior violent and criminal behavior, the Board concluded that petitioner is not yet suitable for parole at this time.

Accordingly, the petition is denied.

The court order is signed and filed this date. The clerk is directed to give notice.

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: MAY 29, 2007  
Honorables: PETER ESPINOZA  
NONE

Judge J. PULIDO  
Bailiff NONE

Deputy Clerk  
Reporter

(Parties and Counsel checked if present)

BH 004425  
In re,  
LUIS CASTILLO,  
Petitioner,  
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

A true copy of this minute order is sent via U.S. Mail to the following parties:

Luis Castillo  
C-73437  
Calipatria State Prison  
P.O. Box 5002  
Calipatria, CA 92233

Department of Justice  
Office of the Attorney General of the State of California  
Gregory J. Marcot, Deputy Attorney General  
110 West A Street, Suite 1100  
San Diego, CA 92101

THE DOCUMENT TO WHICH THIS CERTIFICATE IS  
ATTACHED IS A FULL, TRUE, AND CORRECT COPY  
OF THE ORIGINAL ON FILE AND OF RECORD IN  
MY OFFICE.


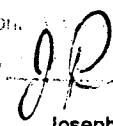
ATTEST JUL 11 11 2 2007

JOHN A. CLARKE, Executive Officer/Clerk of the  
Superior Court of the State of California for the County  
of Los Angeles.

By \_\_\_\_\_, Deputy

JOSEPH M. PULIDO, S.C.C.  
233219



|  |  |  |
|--|--|--|
| <b>SUPERIOR COURT OF CALIFORNIA</b><br><b>COUNTY OF LOS ANGELES</b>  |  | Reserved for Clerk's File Stamp<br><br><b>JUL 02 2007</b><br>Clerk<br>By  Deputy<br>Joseph M. Pulido |
| COURTHOUSE ADDRESS:<br>Clara Shortridge Foltz Criminal Justice Center<br>210 West Temple Street<br>Los Angeles, CA 90012 |  |  |
| PLAINTIFF/PETITIONER:<br><br><b>LUIS CASTILLO</b>  |  |  |
| <b>CLERK'S CERTIFICATE OF MAILING</b><br>CCP, § 1013(a)<br>Cal. Rules of Court, rule 2(a)(1)                             |  | CASE NUMBER:<br><br><b>BH004425</b>  |

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

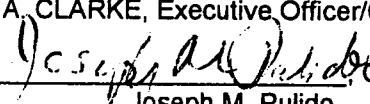
- ☐ Order Extending Time  
☐ Order to Show Cause  
☐ Order for Informal Response  
☐ Order for Supplemental Pleading

- ☒ Order re: Writ of Habeas Corpus  
☐ Order  
☐ Order re:  
☐ Copy of Petition for Writ of Habeas Corpus for the Attorney General

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

July 2, 2007  
 DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By:  Clerk  
 Joseph M. Pulido

Luis Castillo  
 C-73437  
 Calipatria State Prison  
 P.O. Box 5002  
 Calipatria, CA 92233

Department of Justice  
 Office of the Attorney General of the State of California  
 Gregory J. Marcot, Deputy Attorney General  
 110 West A Street, Suite 1100  
 San Diego, CA 92101

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**I**

**BECAUSE PETITIONER WAS DENIED PAROLE PRIMARILY BASED  
ON HIS COMMITTED OFFENSE WHICH IS NOT PARTICULARLY EGREGIOUS,  
PETITIONER'S DUE PROCESS WAS VIOLATED**

13-30

**II**

**BECAUSE THE BPH DENIED PETITIONER PAROLE MULTIPLE YEARS,  
PETITIONER'S PLEA BARGAIN, DUE PROCESS, AND EX POST FACTO  
PROVISIONS  
WERE VIOLATED**

30-40

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1 LUIS CASTILLO, C-73437

2 P.O. BOX 5002

3 CALIPATRIA, CA 92233

4 In Pro Per

5  
6 **UNITED STATES DISTRICT COURT**  
7 **CENTRAL DISTRICT OF CALIFORNIA**

8 In Re: LUIS CASTILLO,

9 Petitioner,

10 FOR WRIT OF HABEAS CORPUS

CASE NO.

PETITION FOR WRIT OF HABEAS  
CORPUS; MEMORANDUM OF POINTS &  
AUTHORITIES

11 **INTRODUCTION**

12 1. This petition was originally submitted for filing in Los  
13 Angeles Superior on December 19, 2006 (see, Proof of Service and  
14 Certified/Registered Mail Notice, Exhibit[EX.]-D). Pursuant to  
15 the claims, facts, authorities, and exhibits incorporated and  
16 set forth in this court action, Petitioner seeks relief by a Pe-  
17 tition for Writ of Habeas Corpus directing Respondent, Board of  
18 Parole Hearings (BPH), to: (1) reverse its decision in Peti-  
19 tioner's Parole Consideration Hearing (BPH) conducted 1-17-05  
20 (EX.-A, CERTIFIED TRANSCRIPT, November 17, 2005, BPH HEARING) to  
21 deny Petitioner parole primarily based on the commitment offense  
22 because Petitioner's crime is not "**particularly egregious**", and  
23 thus, not more violent or aggravating than the minimum necessary  
24 to sustain his conviction, (2) order the BPH not to continue to  
25 rely on the committed offense in the future to deny him parole,  
26 (3) declare that Petitioner is entitled to Annual, parole, Re-  
27 views based on the law that was applicable at the time

1 of his arrest and should have been incorporated into his plea  
2 agreement as he reasonably understood at the time of waiving his  
3 right to a jury trial, (4) order the BPH to convene a fair and  
4 impartial hearing within 30 to 60 days as Petitioner is entitled  
5 to have in accordance with statute, have his term of confinement  
6 set according to the appropriate Matrix Table Scheme, and thus,  
7 set a parole date; if said time has lapsed, to release Peti-  
8 tioner on parole forthwith and to credit his term with the num-  
9 ber of days during which he has been con-fined to prison beyond  
10 said parole date.

#### 11 CHARGES AND PROCEDURAL HISTORY

12  
13 2. On January 11, 1982, Petitioner was charge and subse-  
14 quently, in 1983, convicted of Cal. P.C. §187 (murder) in Los  
15 Angeles County Superior Court, Case No.#A375051, for which he  
16 received a sentence of 25 Years to Life, however, Petitioner  
17 case is somewhat convoluted and confusing based on the fact that  
18 Petitioner had several charges pending in another case (Case  
19 No.#A149652, 10-14-81), also in Los Angeles County, and the two  
20 said cases were merged in this Court; Petitioner accepted a plea  
21 bargain for both cases in the same agreement, and the Court sen-  
22 tenced Petitioner to twenty-three (23) years and eight (8)  
23 months for the first case (Case No.#A149652, series of robber-  
24 ies); thus, some how based on the two stated cases above, this  
25 Court sentenced petitioner to a total of thirty-five (35) years  
26 with some part of the determinate sentence for the series  
27  
28

1 of robberies running concurrent with the indeterminate sentence  
2 for the controlling offense of murder - 25 Years to Life. ("...two  
3 sentences will run together during the time the periods over-  
4 lap.", In Re Roberts (1975) 40 Cal.2d 749.)

5 3. Petitioner was received by the California Department of  
6 Corrections on 9-23-83; his Minimum Eligibility Parole Date  
7 (MEPD) was determined to be 12-20-05.

9 4. The first decade (1983-1987) of Petitioner's incarceration  
10 tion was a "rocky" period where Petitioner suffered episodes of  
11 maladjustment which is reflected by committed infractions or se-  
12 rious prison misbehavior (Petitioner has approximately 14 seri-  
13 ous disciplinary rules violation reports - "write-ups", two in-  
14 fraction are of a violent nature [assault on an inmate with a  
15 weapon, 1985], EX.-C, Lifer Prisoner Evaluation, 2004, p.7, D.)

17 5. However, about 19 years ago (1988), Petitioner began to  
18 see the errors of his ways, so to speak, or simply began to ma-  
19 ture; he made a conscious decision to disassociate himself from  
20 all the negative elements in a prison environment which had  
21 marred his life in prison to that point, and instead, commit  
22 himself to spend the duration of his confinement making a strong  
23 effort to re-evaluate his priorities, values, and shortcomings;  
24 thus, he dedicated his time to character rebuilding and to live  
25 a more positive lifestyle - or rehabilitation.  
26  
27  
28

1           6. Therefore, about 1987, Petitioner cut all ties with his  
2 former street/prison gang associates which he knew was essential  
3 if he wanted to seriously study theology and practice his relig-  
4 ion (Christianity) and acquired a basic education (G.E.D.); Pe-  
5 titioner eventually received a Degree of Graduate Theology from  
6 The Gulf Coast Bible Institute, 2004. (EX.-C, p.7)

7  
8           7. To say more, in order to escape the violence and manipu-  
9 lation by more aggressive and violently prone inmate in the Gen-  
10 eral Population and to maintain on his path of rehabilitation,  
11 Petitioner requested to be placed in Protective Custody (pres-  
12 ently referred to as "Sensitive Needs" status) in 2000, and  
13 where he is currently housed to date; ergo, Petitioner **cooper-**  
14 **ated with authorities** in all respects as to prison affairs in a  
15 long interview conducted by appropriate staff in order for Peti-  
16 tioner to officially cleared for housing in protective custody.  
17 (cooperating with authorities/law enforcement is an indication  
18 of rehabilitation or suitability for parole, In Re Jackson  
19 of rehabilitation or suitability for parole, In Re Jackson  
20 39 Cal.3d 464 (1985), at 475.)

21  
22           8. Also, he has remained disciplinary free the last nine-  
23 teen (19) years to date or the last seventeen (17) years prior  
24 to his, 2005, parole consideration hearing. Petitioner has ap-  
25 proximately 60 to 70 positive or laudatory reports/write-ups of  
26 acknowledgement in the forms of certificates of Comple-  
27 tion/achievement, work reports, laudatory chronos, etc..., in  
28

1 contrast to his approximate 15 disciplinary write-up reports  
2 which occurred before 1988, aforementioned.

3 9. Petitioner raises no challenge herein to the judgement  
4 of conviction. Petitioner raises challenges only against the  
5 Board of Prison Hearings (BPH) concerning its denial of Peti-  
6 tioner's parole on November, 17, 2005. Petitioner has also ac-  
7 quired solid marketable skills by completing vocational Auto-  
8 body and Fender, 6-24-02, and eight (8) Certificates of Achieve-  
9 ment in the area of vocational Silk Screening. (EX.-C, p.7.)

11 10. Moreover, Petitioner has taken advantage and partici-  
12 pated in all self-help program available to date, i.e., but not  
13 limited to A.A., N.A., Anger Management, Life Without A Crutch,  
14 Straight Life (mentor program), etc.... Petitioner does have a  
15 viable job offer on the outside in the auto field, however, a  
16 job offer is not required by law, rules, or regulations as a  
17 condition of parole only that the parole applicant have market-  
18 able skills. Furthermore, petitioner last, 2004, psychological  
19 evaluation prepared by Doctor Magner is totally supportive of  
20 parole. (Ex.-B, Mental Health Evaluation, 2004, p.5-6, indi-  
21 cated: Petitioner's potential for violence in the free community  
22 is felt to no more than the average male citizen Petitioner's  
23 age.)

26 //

28 //

FACTS OF THE CASE

11. On January 10, 1982, Petitioner and accomplice (EX.-A, pp.15-34) robbed a local restaurant (Rusty's Hacienda) and its patrons; Petitioner admits to "roughing up" a security guard who did not reveal he was armed when questioned.

12. The authorities were alerted of the robbery in progress and were immediately dispatched to the scene while petitioner and accomplice simultaneously fled the scene of the crime in a vehicle; soon after, a police vehicle and a helicopter were in pursuit and a high speed chase commenced.

13. Petitioner and accomplices fired a weapon (shotgun) out of their speeding vehicle into the air in forlorn hope that the loud blast of their firearm would slow down the pursuing vehicle and allow them to escape.

14. However, a mile or so down the street, Petitioner's accomplice driving the "get away" vehicle lost control of the vehicle and crashed to a stop; at this time, Petitioner still conscious attempted to help his brother, murdered victim, out of the crashed vehicle, but his brother stated that he wanted to stay and surrender; no gun shots were fired at police at any time after the fleeing vehicle crashed; ergo, Petitioner left the murder victim in the vehicle unarmed and still alive before police fired their weapons and killed him which is a plausible

1 scenario when it is considered that Petitioner was able to es-  
2 cape and allude police until the next morning and only after po-  
3 lice canine units were dispatched was he discovered. Fortu-  
4 nately, no other people were physically injured besides Peti-  
5 tioner's brother/accomplice.  
6

7  
8 **PAROLE HEARING HISTORY**

9 15. On 11-17-05, the Board of Prison Hearings (BPH) con-  
10 ducted an "Initial" parole consideration hearing; to determine  
11 Petitioner's suitability for parole. (EXHIBIT-A, CERTIFIED TRAN-  
12 SCRIPT, 2005, BPT HEARING); however, it is worth noting that  
13 statute (Cal.P.C. §3041(a)) mandates that an inmate serving an  
14 indeterminate sentence with the possibility of parole shall be  
15 scheduled for a parole consideration hearing one (1) year before  
16 reaching his Minimum Eligibility Parole Date (MEPD), thus, in  
17 2005, Petitioner should have been scheduled not for his "Ini-  
18 tial" but for his "Subsequent #1" parole consideration hearing.  
19 Nevertheless, at the, 2005, BPH hearing, Petitioner was denied  
20 parole two (2) years primarily based on the committed offense.  
21 The BPH's decision became final on March 17, 2006. (EX.-A, Id.,  
22 pp.96-108.)  
23  
24

25 16. Petitioner alleges that the BPH's reliance primarily on  
26 the nature and circumstances of the crime to deny him parole two  
27 (2) years is contrary and belies the California Supreme Court's  
28

1 opinion in In Re ROSENKRANTZ, [ROSENKRANTZ-IV] 29 Cal.4<sup>th</sup> 616,  
2 661, which determined that the crime an inmate was convicted of  
3 committing must be more violent and aggravating than the minimum  
4 necessary to sustain the conviction to justify denial of parole;  
5 it is reasonable to say that this point is amplified by the fact  
6 that statute mandates that the Parole Board "shall normally"  
7 set a parole date (P.C. §3041(a)) at every parole considering  
8 hearing conducted.  
9

10 17. Petitioner's accomplice, brother, was shot to death by  
11 police after petitioner escaped the scene of the crash site in  
12 the process of evading arrest for an attempted robbery, and Pe-  
13 titioner was convicted of his brother's homicide; thus, to say  
14 that the murder was exceptionally callous, dispassionate, and/or  
15 calculating (EX.-A, p.98, ¶21-26) is flippant and inflammatory -  
16 wording used to describe crime is **unconstitutionally vague**. (Ma-  
17 yard V. Cartwright 100 L.Ed.2d 372, 380-81 - also compare, In Re  
18 Rosenkrantz [Rosenkrantz-II] 80 Cal.App. 409, 425.)  
19  
20

21 18. Moreover, the BPH never demonstrated how the specific  
22 facts of the committed offense relied on to deny Petitioner pa-  
23 role which occurred more than two (2) decades prior to the,  
24 2005, BPH parole hearing were supportive of "Some Evidence" of  
25 petitioner's unreasonable present threat to public safety  
26 (In Re Lee 49 Cal.Rptr.3d 931, 936-937, 143 Cal.App.4<sup>th</sup> 1400,  
27 p.\_\_\_\_, (2006)), especially, when considering that Petitioner  
28

1 has been a model inmate approximately eighteen (18) years prior  
2 to his last hearing, and his last psychological evaluation was  
3 totally supportive of parole. (EX.-B, Mental Health Evaluation,  
4 2004, p.5-6.)

5 19. Therefore, Petitioner additionally alleges that because  
6 the BPH failed to apply relevant standards properly, Peti-  
7 tioner's **due process** rights were violated, and the BPH decision  
8 can not be shielded by invocation of the "Some Evidence" stan-  
9 dard.  
10

11 20. Petitioner alleges he has a constitutionally protected  
12 liberty interest and expectancy to receive annual, yearly, re-  
13 view parole consideration hearings per P.C. §3041.5(b)(2).  
14

15 21. However, at the decision phase of the, 2005, parole  
16 hearing, the BPH recited the specific factors and reasons enun-  
17 ciated for denying parole (EX.-A, pp.96-108) which is an auto-  
18 matic one (1) year deferment or denial of parole then  
19 the BPH basically, and/or effect, recited the same fac-  
20 tors(elements) and reasons again it just used to deny him parole  
21 in order to **enhance** the denial of parole an extra year totaling  
22 two (2) years, Ex.-A, pp.96-107; this is contrary to sentencing  
23 principles barring "dual usage" of elements for sentence en-  
24 hancement purposes.(Cal.Rules of Court, Rule 4.420(d); People V.  
25 Thomas 21 Cal.4<sup>th</sup> 1122 (1999).)  
26  
27  
28

1 22. Furthermore, at the time of Petitioner's committed of-  
2 fense, defendants convicted of First Degree Murder were entitled  
3 to Annual Reviews, thus, could apply every year for parole; Pe-  
4 titioner accepted a plea agreement and plead guilty to First De-  
5 gree Murder, and he was sentenced to 25 Years to Life; however,  
6 before accepting the plea agreement, Petitioner did consult per-  
7 tinent rules and regulations and did act upon the advice of his  
8 attorney, C. Brown, who informed him that upon becoming eligible  
9 for parole according to statute and regulations, Petitioner  
10 would be able to apply for parole on an annual basis. Thus, Pe-  
11 titioner did believe that the law applicable at the time of his  
12 committed offense would be incorporated into his plea bargain  
13 agreement by operation of law.  
14

15  
16 23. To say more, the law that allowed the BPH discretion to  
17 deny inmates convicted of murder multiple years not in effect at  
18 the time of Petitioner's committed offense unless an inmate had  
19 multiple murder convictions which Petitioner does not (committed  
20 offense occurred on January 10, 1982); thus, applying such a law  
21 retroactively violates **EX POST FACTO** provisions  
22

23 24. Before Petitioner accepted his plea agreement, he was  
24 not given fair notice that a law could be implemented in the fu-  
25 ture that could increase punishment for the covered crime by de-  
26 laying his right to apply for parole on an annual basis, and  
27 thus, by virtue lengthening his sentence in practice since  
28

1 according to recent state and federal case law Petitioner or in  
 2 effect does have a reasonable expectation to parole at every pa-  
 3 role consideration hearing; Petitioner does not belong to a  
 4 "subclass" of inmates serving an indeterminate sentence that  
 5 does not have a reasonable expectation to parole considered in  
 6 CDC V. Morales 514 U.S. 499 (1995); ergo, petitioner alleges that  
 7 his expectations under the plea bargain have been breached be-  
 8 cause the BPH has failed to grant Petitioner Annual Review since  
 9 reaching his Minimum Eligible Parole Date (MEPD). The concluding  
 10 grounds are detailed below for relief.  
 11  
 12  
 13

#### 14 THE REQUIREMENT OF DUE PROCESS AND STANDARD OF REVIEW

15 1) California statute establishes a liberty interest in  
 16 parole protected by due process. (In Re Rosenkrantz (2002) 29  
 17 Cal.4<sup>th</sup> 616, 661 [Rosenkrantz-IV]; McQuillion v. Duncan (9<sup>th</sup> Cir.,  
 18 2002) 309 F.3d 895, 901-903.)

19 2) when an inmate is denied parole primarily based on the  
 20 crime, the committed offense **must be more aggravating and vio-**  
 21 **lent than what is necessary to sustain the conviction**, or must  
 22 be **"particularly egregious"**. (Rosenkrantz-IV, supra, 29 Cal.4<sup>th</sup>,  
 23 p.683.) If the circumstances and facts of the controlling of-  
 24 fense of [First Degree] murder are within the BPH's **term fixing**  
 25 **guidelines** (Title 15, CCR §2403(B), Matrix of Base Terms...,  
 26  
 27  
 28

[matrix table scheme]], the committed offense can not be considered to be exceptional or particularly egregious.

3) However, Petitioner may be denied suitability for parole if there is "some evidence"<sup>1</sup> to support factors that petitioner is an "unreasonable risk" to public safety. (In Re Powell 45 Cal. 3d 894; Rosenkrantz-IV, Id., at p. 658; Title 15 C.C.R. 2402 (a).) At any rate, if the BPH used a combination of factors to deny an inmate parole, and there is no "some evidence" to support one or more of the factors relied on to deny parole, the entire decision can not stand. (In Re Smith (Ernest) (2003) 114 Cal.App.4<sup>th</sup> 343, 373.)

4) A negotiated guilty plea requires both parties to honor the agreement as to the sentence. (People V. Walker 54 Cal.3d 1013, 1024.) "A plea agreement is, in essence, a contract between the defendant and the prosecutor to which the court consents to be counted.", People v. Cunningham (1996) 49 Cal.App.4<sup>th</sup> 1044, 1047.

1. Although, the state courts have adapted the very low standard of "Some Evidence" in cases where parole is denied originally established in Superintendent V. Hill 472 U.S. 445 which was based on the rationale that only a very low standard was necessary in a case involving an administrative disciplinary hearing in order to protect a "CONFIDENTIAL SOURCE", Petitioner argues that the higher standard of "CLEAR AND CONVINCING EVIDENCE" should apply instead because the administrative decision in his case involves a significant deprivation of liberty or stigma... Petitioner would otherwise be condemned to suffer grievous loss, see, Santosky V. Kramer 455 U.S. 745 (1982), and the individual interest at stake in a state proceeding are both particularly important and more substantial than mere loss of money, see, Addington V. Texas 411 U.S. 418, cited in Stantosky, Id.

MEMORANDUM OF POINTS AND AUTHORITIES

Constitutional Claims:

I

BECAUSE PETITIONER WAS DENIED PAROLE PRIMARILY BASED  
ON HIS COMMITTED OFFENSE WHICH IS NOT PARTICULARLY EGREGIOUS,  
PETITIONER'S DUE PROCESS WAS VIOLATED

In 1983, Petitioner was convicted of First Degree Murder and sentenced to serve 25 Years to Life (note: if the parole board does not set a parole date promptly, it is considered to be set at the maximum of life, In Re Rodriguez 122 Cal.Rptr. 552, 563.) On 11-17-06, Petitioner was denied parole by the Board of Prison Hearings (BPH) at an "Initial" (First) parole consideration hearing. (EX.-A, CERTIFIED TRANSCRIPTS, 2005, BPH HEARING, pp.96-108.)

The BPH's power and authority to deny petitioner parole essential and logically stems from the conviction of First Degree Murder which carries a life sentence with the expectation of a parole (McQuillion, infra, inmate has a liberty interest in parole); without this "primary factor", all other factors left over that the BPH may considered and/or used against Petitioner to justify denial of parole do not tantamount to a life sentence or to justify setting Petitioner's date at **LIFE** at his, 2005, parole consideration hearing when it is considered that with **good time custody credit** Petitioner has been confined 25 to 30

1 years or more and to date has served more time incarcerated as  
2 that for a more aggravated offense. (compare, In Re Weider 145  
3 Cal. App. 4<sup>th</sup> 570, p.\_\_\_\_ (No. H030203 Sixth Dist. December 5,  
4 2006); in Weider, the Court noted that with custody credits an  
5 inmate serving indeterminate sentence with a possibility of  
6 parole could be within or passed the appropriate Matrix for the  
7 covered offense, and thus, the minimum necessary of aggravating  
8 factors to sustain the conviction is or should not be any longer  
9 a question to keep denying him parole based on the committed of-  
10 fense multiple times because he has now served the time of con-  
11 finement for a more aggravating offense), and thus, Petitioner  
12 has passed the minimum term of his confinement (Irons V. Carey  
13 479 F.3d 658, supra, 2007 DJDAR, p. 3074) and also the terms in-  
14 dicated in BPH's Rules/Regulations or Matrix Table (Title 15,  
15 CCR P.C. §2403 (b)) for term fixing or sentencing guidelines to  
16 help determine a uniform term of confinement for an inmate con-  
17 victed of first degree murder based on the unique facts and cir-  
18 cumstances of Petitioner's controlling offense which do not fall  
19 outside stipulated sentencing guidelines show that Petitioner's  
20 facts of the crime are not the most aggravated based on said  
21 term fixing guidelines, e.g., torture being at the most extreme  
22 end and not remotely related to Petitioner's circumstances in  
23 the crime; because the BPH has not promptly set a parole date  
24 for Petitioner's release, it is considered to be set at the  
25  
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28

1 maximum of "Life"; the BPH justifies setting Petitioner's date  
 2 at the maximum of life by basing its decision on factors that  
 3 are never going to change. (EX.-A, p.96-107.) Noteworthy, "Mur-  
 4 der without special circumstances (\$190, '25 Years to Life' for  
 5 first degree, '15 Years to Life' for second degree) and conspir-  
 6 acy to commit murder (\$182, punishable prescribed for first de-  
 7 gree murder currently carry the only indeterminate life sentence  
 8 as defined by the **CLOUGH** line of case.... The CLOUGH line of cases  
 9 holding that an Indeterminate life sentence is not a life  
 10 term....", (underline added), see, People V. Yates 34 Cal.Rptr.  
 11 765.

12  
 13  
 14 Nevertheless, even if an inmate is serving an indeterminate  
 15 sentence with the possibility or expectation of parole, he is  
 16 entitled not to be confined for a time beyond what is dispropor-  
 17 tionate to his individual culpability in a particular crime  
 18 (compare, Rodriguez, supra, 122 Cal.Rptr., p.562); the Califor-  
 19 nia Supreme Court and federal courts have recognized this prin-  
 20 ciple even in cases of murder and those punishable by the death  
 21 penalty. (People V. Dillion 1014 Cal.Rptr.\_\_\_\_, pp.413-15; Sel-  
 22 lars V. Procunier 614 F.2d 1295 (1981), p.1303; Emmund V. Flor-  
 23 ida 102 S.CT. 3368, 3377-78.)

24  
 25 California's parole statutes and regulations bestow on pe-  
 26 titioner who is serving an indeterminate sentence a liberty in-  
 27 terest in parole protected by due process. (In Re Rosenkrantz  
 28

1     [Rosenkrantz-IV] 29 Cal.4<sup>th</sup> 616; McQuillion V. Duncan (9<sup>th</sup> Cir.,  
2     2002) 309 F.3d 895, 901-903.) Only if a committed offense is es-  
3     pecially or particularly egregious, and/or, if a crime is more  
4     violent or aggravated than what is necessary to sustain the con-  
5     viction, can the crime be used to primarily justify denial of  
6     parole. (Rosenkrantz-IV, supra, 29 Cal.4<sup>th</sup>, p.683; In Re Ramirez  
7     114 Cal.Rptr.2d 381, 397.)  
8

9     The BPH's determination to justify denial of parole must be  
10    Supported by "Some Evidence." (In Re Powell 45 Cal.3d 894, 904;  
11    Rosenkrantz-IV, Id., p.658.) Furthermore, Petitioner is entitled  
12    to have his case duly considered. (In Re Sturm (1974) 11 Cal.3d  
13    258, 268.)  
14

15    This is an unusual case where on January 10, 1982, Peti-  
16    tioner and accomplice (EX.-A, pp.15-34) robbed a local restau-  
17    rant (Rusty's Hacienda) and its patrons; Petitioner admits to  
18    "roughing up" a security guard who did not reveal he was armed  
19    when questioned.  
20

21    The authorities were alerted of the robbery in progress and  
22    were immediately dispatched to the scene while petitioner and  
23    accomplice simultaneously fled the scene of the crime in a vehi-  
24    cle; soon after, a police vehicle and a helicopter were in pur-  
25    suit and a high speed chase commenced.  
26

27    Petitioner and accomplices fired a weapon (shotgun) out of  
28    their speeding vehicle into the air in forlorn hope that the

1 loud blast of their firearm would slow down the pursuing vehicle  
2 and allow them to escape.

3       However, a mile or so down the street, Petitioner's accom-  
4 plice driving the "get away" vehicle lost control of the vehicle  
5 and crashed to a stop; at this time, Petitioner still conscious  
6 attempted to help his brother, (murdered victim), out of the  
7 crashed vehicle, but his brother stated that he wanted to stay  
8 and surrender; no gun shots were fired at police at any time af-  
9 ter the fleeing vehicle crashed; ergo, Petitioner left the mur-  
10 der victim in the vehicle unarmed and still alive before police  
11 fired their weapons and killed him which is plausible when it is  
12 considered that Petitioner was able to escape and allude police  
13 until the next morning and only after police canine units were  
14 dispatched was he discovered; Petitioner remembers being rushed  
15 by police and canine unit, then after, without explanation fell,  
16 he was unconscious from asphyxiation; when Petitioner became  
17 conscious, he found himself entirely covered with a white sheet  
18 by authorities as if to indicate that Petitioner was deceased.  
19 Petitioner was then immediately placed in restraints and ar-  
20 rested. Fortunately, no other people were physically injured be-  
21 sides Petitioner's brother/accomplice.

22       Consequently, in a plea agreement, Petitioner received a  
23 determinate sentence (23 years, #A149652) which runs concurrent  
24 to his indeterminate term of 25 Years to Life for the control-  
25  
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28

1 ling offense (#A375051) and some way ended up with a total of 35  
2 Years to life sentence. ("...two sentences will run together dur-  
3 ing the time the periods overlap.", In Re Roberts (1975) 40  
4 Cal.2d 749.) And thus, because Petitioner's crime is not **par-**  
5 **ticularly egregious** he should not be denied parole by the BPH  
6 the rest of his natural life essentially based on these lesser  
7 included changes and sentences not related to the controlling  
8 offense.(if the parole authorities do not set a parole date  
9 promptly, it is considered to be set at the maximum, Rodriguez,  
10 supra, 122 Cal.Rptr., p.563, fn.18.)  
11

12 Hence, any prudent person could reasonably assess that Pe-  
13 titioner's murder conviction under his unique circumstance is of  
14 the least aggravating in comparison to other crimes of the same  
15 nature, or is not more violent or aggravating than the minimum  
16 necessary to sustain Petitioner's conviction to justify denial  
17 of parole. (Rosenkrantz-IV, Supra, 29 Cal.4<sup>th</sup>, p.683.)  
18

19 Moreover, the BPH normally ignores its own official guide-  
20 lines or rules and regulations which clearly and ostensibly make  
21 distinctions between facts and circumstances of a committed of-  
22 fense even for the same degree of murder until first a parole  
23 applicant is found suitable for parole. (T.15, CCR, §2403(b).)  
24 This practice belies the California Supreme Court decision in  
25  
26  
27  
28

1 Rodriguez, supra, 122 Cal.Rptr., p.562, where it is clearly in-  
2 dicated in its opinion that parole-granting or determining an  
3 inmate is suitable for parole and actually setting a parole date  
4 are two completely distinct functions; the rationale is that the  
5 latter should not be dependent on the former or the BPH will run  
6 the high risk of confining a parole applicant beyond what is  
7 proportionately acceptable relative to his individual culpabil-  
8 ity related to the committed offense, and also, leave Petitioner  
9 with no remedy to challenge or seek judicial review to test the  
10 constitutionality of a specific length of confinement based on  
11 term proportionality and individual culpability, Id., p.560;  
12 compare, Cal.P.C. §3041(a), "term uniformity"; and thus, the BPH  
13 undermines its statutory obligation to **promptly** and **normally** set  
14 a parole date contrary to state statute and court precedent  
15 (Id., p.563; Id., §3041(a), "...shall normally set a date...") espe-  
16 cially when it is evident that Petitioner's committed offense is  
17 not **exceptional** or **particularly egregious**; Petitioner contends  
18 that although the High Court's decision in Rodriguez opined  
19 based on **Indeterminate Sentence Law** guidelines (former P.C.  
20 §1168[ISL], and he was sentenced under **Determinate Sentence Law**  
21 guidelines (P.C. §1170[DSL]), in principle as it pertains to pa-  
22 role, it is "one in the same" since the DSL naturally evolved  
23 from the ISL and the wisdom derived from common law court deci-  
24 sion which have interpreted these parole guidelines, official  
25  
26  
27  
28

1 and unofficial, from the onset of the parole system in general.  
2 ("... the standard for parole have not been altered under the  
3 DSL. The criteria utilized under the ISL as developed through  
4 practice and as modified by case law were not altered by the  
5 DSL.", In Re Seabock 189 Cal.Rptr. 310, p.318.) Thus, the  
6 DSL does not exempt the BPH to promptly set a parole date sepa-  
7 rate from granting parole in the same way the Adult Authority  
8 (former name for the BPH) was not exempted under the ISL or the  
9 term will be considered at the maximum which may be dispropor-  
10 tionate to petitioner's individual culpability and thus uncon-  
11 stitutional. (Rodriguez, Ibidem.)  
12

13  
14 Following this thread of reasoning, Petitioner would now  
15 like to direct the Court to these said guidelines that are une-  
16 quivocally indicative of the fact that the legislature by the  
17 DSL and relative rules and regulations never intended for all  
18 inmates convicted of First Degree Murder to suffer the maximum  
19 term of **LIFE** despite the worse case scenario; for example, Title  
20 15, CCR, §2403(b) (MATRIX OF BASE TERMS FOR FIRST DEGREE MURDER  
21 ON OR AFTER NOVEMBER 8, 1978) discussed and displays a graph  
22 like system with a wide range of base terms and gradation of  
23 specific circumstances and facts related to the inmate's indi-  
24 vidual culpability in the committed offense which also suggests  
25 trio-terms of low, mid, and high per gradation level; it is at  
26 the same time worth noting that this matrix system does not at  
27  
28

1 all suggest, indicate, or enunciate a maximum of life term for  
2 any set of factors and not even in the worse case scenario,  
3 aforementioned; more specific, this **matrix table** indicates four  
4 categories imposed on two separate axes; the **VICTIM's** axis would  
5 consider the relationship of the victim and petitioner, and the  
6 **CIRCUMSTANCES** axis would focus on the degree of involvement of  
7 the Petitioner and the nature of the murder; now to select the  
8 base term, the BPH looks at the combination of factors along  
9 both axes to find the appropriate range of confinement for the  
10 particular combination. And thus, the facts and circumstances of  
11 Petitioner's committed offense would irrefragably place him at  
12 the lower than the maximum of 31-32-33 years for which circum-  
13 stances involve a threat to public order, murder for hire, and  
14 torture (Title 15, CCR, §2403(b) "VICTIM IV" in conjunction with  
15 "CIRCUMSTANCES D"); none of these most aggravated factors are  
16 even remotely related to Petitioner's individual case or of-  
17 fense. Petitioner. Petitioner has been confined over twenty-five  
18 (25) years to date and with good time custody credit factored  
19 into calculating his base term, he would be past the lesser ag-  
20 gravated terms on the appropriate matrix which apply to his con-  
21 trolling offense.

22 Although Petitioner has no vested right to a term fixed at  
23 less than the maximum (In Re Schoengarth 66 Cal.2d 295), Peti-  
24 tioner does have a right to have his term fixed within a range

1 that is not disproportionate to his individual culpability for  
 2 the committed offense or to have his term set in uniformity with  
 3 offense of similar gravity. (People V. Wingo (1975) 14 Cal.3d  
 4 169, 182; Rodriguez, supra, 122 Cal.Rptr., p.561; P.C. §3041(a),  
 5 uniformity; also, Dillion and Sellars, Ibidem, p.15; thus, the  
 6 oft-stated rule that a prisoner has no right to a term fixed at  
 7 less than the maximum [Schoengarth, Id., In Re Cowen (1946) 27  
 8 Cal.2d 637, 641] is therefore subject to the overriding consti-  
 9 tutionally compelled qualification that the maximum may not be  
 10 disproportionate to the individual prisoner's offense. [Wingo,  
 11 Id., at p.182], Rodriguez, Id., at p.652.) Petitioner respect-  
 12 fully points out the Court that it makes tremendous sense  
 13 that the very nature and purpose of devising a parole system is  
 14 to release an inmate at the earliest possible time that the law  
 15 permits with consideration of the merits and objectives of each  
 16 individual case. (Roberts V. Duffy (1914) 167 Cal. 629; also com-  
 17 pare, Greenholtz V. Inmates Of Nebraska Penal... 442 U.S. 1, 7,  
 18 11-12 (1979), which stated, "It is important that we not over  
 19 look the ultimate purpose of parole which is a component of long  
 20 rang objective of rehabilitation.", Id., at p. 13.

21  
 22 Consequently, as a result of the Wingo and Rodriguez, su-  
 23 pra, decisions, the BPH, formerly the Adult Authority, issued a  
 24 new directive (No.75/30, date September 2, 1975); the directive  
 25 declared that every effort will be made to establish parole  
 26  
 27  
 28

1 dates the first time the inmate appears for his regularly sched-  
2 uled parole consideration hearing; therefore, if we follow this  
3 course to its logical conclusion, it is not surprising that the  
4 following year, 1976, the Legislature codified new provision to  
5 remedy the abuses discussed in Rodriguez by amending P.C.  
6 §3041(a). These new provisions or reforms were added and part of  
7 the same bill that enacted the DSL (Stats.1976, Ch.1139, §281,  
8 p.515) which were intended to serve the same purpose, i.e., to  
9 punish crimes by imposing terms that are proportionate to the  
10 seriousness of the offense by comparing offenders, offenses, and  
11 circumstances, "...The Board of Prison Terms...will provide uni-  
12 form terms for offenses of similar gravity...", P.C. §3041(a);  
13 compare, P.C. §1170(a)(1), (Added stats. 1976, Ch.1139, §237,  
14 operative July 1, 1977, [DSL]), People V. Martin (1986) 42  
15 Cal.3d 437, at pp.442-443; in addition, our High Court has de-  
16 termined that the "uniform terms" mandated by §3041(Id.) are  
17 analytically equivalent to determinate sentences imposed under  
18 §1170(Id.), People V. Jefferson 21 Cal.4<sup>th</sup> 86, pp.95-96.

19  
20  
21  
22 Considering the chain of events leading up to these said  
23 new provisions, it obvious what the Legislature intended by  
24 their language and construction; in P.C. §3041(a), the Legisla-  
25 ture was specific to include that the BPH **shall normally** set a  
26 parole date one year prior to parole applicant's MEPD or at his  
27 very **first consideration for parole** hearing to remedy the lack  
28

1 in **promptness** by the BPH for setting parole dates; and law mak-  
2 ers went further by adding to these provisions that the BPH will  
3 provide **uniform term** for crimes of similar gravity to resolve  
4 the disproportionate disparities between an indeterminate life  
5 sentence and the specifics of a committed offense which were two  
6 major issues criticized, discussed, and established in Wingo and  
7 Rodriguez, supra. And last but not least, the "Matrix Table"  
8 scheme came into play to facilitate the BPH's duty to set terms  
9 that are uniform and consistent with crimes of the same nature.  
10 However, it is worth noting, contrary to statute, the BPH **does**  
11 **not normally set parole dates** and uniformity in terms is virtu-  
12 ally unheard of since after 25 years of confinement Petitioner  
13 has still no idea from the BPH when he may be paroled not even  
14 when compared to other offenders serving life sentences despite  
15 the circumstances and facts of comparable crimes.

18 Hence, Petitioner adamantly contends that the facts and  
19 circumstances of his crime can not be reasonably characterized  
20 as being especially exceptional and/or particularly egregious;  
21 thus, there is no evidence to support that his committed offense  
22 is **particularly egregious** (Rosenkrantz-IV, supra, 29 Cal.4<sup>th</sup> ,  
23 p.683) to primarily justify denial of parole based on the com-  
24 mitted offense because the crime can not be deemed to be more  
25 violent or aggravating than what is necessary to sustain the  
26 conviction of First Degree Murder by any legal stan-  
27  
28

1 dard(Roesenkrantz-IV, Ibid.); the BPH should not have used the  
2 committed offense to justify denial of parole at Petitioner's  
3 "Initial" parole consideration hearing; the committed offense  
4 was the first and most elaborate factor described and used  
5 against Petitioner when the BPH explained its decision to deny  
6 him parole and enhance his denial by an entire year (EX.-A,  
7 pp.96-107); it is reasonable to say that the primary factor for  
8 denying Petitioner parole was the murder conviction.  
9

10 In addition, and more peculiar is the fact that California  
11 parole boards have granted parole dates to inmates convicted of  
12 First Degree Murder and Second Degree Murder serving indetermi-  
13 nate sentences who were found guilty of committing ostensibly  
14 heinous and unequivocally **particularly egregious** crimes of mur-  
15 der in less time than Petitioner has actually already been con-  
16 fined, e.g., **Dennis Stanworth** (In Re Stanworth 187 Cal.Rptr.  
17 783-784) was found suitable for parole thirteen (13) years after  
18 he was convicted of committing two (2) counts of First Degree  
19 Murder; **Stanworth** had kidnaped, raped, robbed, and murder two  
20 (2) teenage girls. Also, **Carl D. McQuillion** (McQuillion V.  
21 Duncan (9<sup>th</sup> Cir., 2002) 306 F.3d 895) who was found suitable for  
22 parole six (6) to seven (7) years after his conviction; **McQuil-**  
23 **lion** and accomplice had murdered a father and son execution-  
24 style who were proprietors of a sporting-goods store in the pro-  
25 cess of committing a robbery; above more, in more recent cases  
26 the same is true: 1) **Lee**, In Re Lee 49 Cal.Rptr.3d 931, went to  
27 the establishment of his intended victim armed with a gun. The  
28 victim owed him money. Lee ended up shooting and only wounding

1 the intended victim, but inadvertently killed the intended vic-  
 2 tim's wife; 2) Rosenkrantz, In Re Rosenkrantz-II, Id., brutally  
 3 murdered his victim by shooting him multiple times with a semi-  
 4 automatic machine gun after a week of fully preparing himself;  
 5 3) Elkins, In Re Elkins (2006) 50 Cal. Rptr. 3d 503, 523), beat  
 6 his victim to death with a baseball bat in the process of com-  
 7 mitting a robbery and then attempted to conceal the body by  
 8 throwing it over a mountain gorge where the body was found many  
 9 months later - body parts strewn and partially eaten by wild ani-  
 10 mals, just to name a few cases.

11 At any rate, as demonstrated above, inmates with obviously  
 12 particularly egregious crimes, especially when compared to Peti-  
 13 tioner's committed offense, have received parole dates from  
 14 California parole boards under the Determinate Sentence Law  
 15 (DSL), the same parole board that has denied Petitioner parole;  
 16 Petitioner's committed offense is not even remotely as violent,  
 17 aggravating and/or heinous as those crimes committed by **Stan-**  
 18 **worth, McQuillion, Elkins**, etc..., who are now free and some off  
 19 parole. It looks like Petitioner is distant to be confined  
 20 longer in prison than those cases named above; Petitioner poses  
 21 the question to the Court, "How is this possible?" Nevertheless,  
 22 even if a crime maybe particularly egregious, **which Petitioner's**  
 23 **is not, continuous reliance on unchanging factors** to deny parole  
 24 may violate due process. (In Re Scott 133 Cal. App. 4<sup>th</sup> 573, 594-  
 25 95 (Scott-II); Biggs V Terhune (9<sup>th</sup> Cir. 2003) 334 F. 3<sup>rd</sup> 910,  
 26 917; Irons V. Carey 479 F.3d 658, p. \_\_\_, 2007 DJDAR (9<sup>th</sup> Cir.)  
 27 3072, 3074 (Irons-II); Irons V. Warden Of California State  
 28 Prison-Solano (Eastern District) 358 F. Supp. 2d 936, 941-42.

1 (Irons-I); also see, Martin V. Marshall 431 F. Supp. 2d 1038  
 2 (2006). Moreover, "...continued reliance on unchanging circum-  
 3 stances transforms an offense for which California law provides  
 4 eligibility for parole into a de facto life imprisonment without  
 5 the possibility of parole", Irons-I, Id. P. 347; Rosenkrantz V.  
 6 Marshall 444 F Supp. 2d 1063, 1082 (2006) (ROSENKRANTZ-  
 7 V); Sanchez V. Kane 444 F. Supp. 2d 1049 (2006); In Re Elkins  
 8 (2006) 50 Cal. Rptr. 3d 503, 523.)

9       Petitioner further contends, the BPH ignores crucial and  
 10 significant rules and regulations or sentence term fixing guide-  
 11 lines which were designed to avoid punishing an inmate beyond  
 12 his individual culpability in the crime or punish an inmate by  
 13 confining him for a term that is disproportionate to his indi-  
 14 vidual culpability and to be given true uniformity in sentencing  
 15 mandated in state statute. (P.C. §3041(a), Title 15, CCR,  
 16 §2403(b); compare, In Re Andrade (2006) 141 Cal.App.4<sup>th</sup> 807,  
 17 p.\_\_\_\_, unreasonable application of parole rules.)

18       Instead, the BPH attempts to raise Petitioner's committed  
 19 offense to a level of particularly egregious or especially ex-  
 20 ceptional by "mouthing off" conclusionary words ( McQuillion,  
 21 supra, 309 F.3d, p.902; In Re Caswell 92 Cal.App.4<sup>th</sup> 1017, 1027,  
 22 112 Cal.Rptr.2d 462; In Re Scott [Scott-I]15 Cal.Rptr.3d 32)  
 23 without any **factual underpinning** that would truly or even rea-  
 24 sonably indicate that Petitioner's crime is in any way particu-  
 25 larly egregious or exceptional, and thus, by virtue exaggerate  
 26 his threat to public in order to justify denial of parole  
 27 (Caswell, supra, 92 Cal.App.4<sup>th</sup> 1017, p.\_\_\_\_, 112 Cal.Rptr.2d 462,  
 28 469; Scott-I, Id., 15 Cal.Rptr.3d, p.50); for example, the BPH

1 seems to believe that just by "mouthing off" aggravating word  
 2 descriptions of the committed offense, i.e., calculated, dispa-  
 3 sionate, ...an exceptional callous disregard for human suffering  
 4 (EX.-A, p.98, ¶21-26) in conjunction with mentioning some of the  
 5 facts and never pin pointing which inflammatory characterization  
 6 apply to what fact, etc..., as the BPH generally does at every  
 7 parole board hearing where an inmate convicted of First Degree  
 8 Murder is denied parole; this boilerplate harague of conclusion-  
 9 ary wording to aggravate any and every crime to justify  
 10 denial of parole is common practice and "unconstitutionally  
 11 vague" at best because this suspect wording would basically ap-  
 12 ply to all cases of First Degree Murder no matter how violent or  
 13 aggravating. (compare, In Re Rosenkrantz [Rosenkrantz-II] 80  
 14 Cal.App.4<sup>th</sup> 409, 425; Mayard V. Cartwright 100 L.Ed.2d 372, 380-  
 15 81, 486 U.S. 356.) Petitioner further contends that the law per-  
 16 mits consideration based on the merit, i.e., on an individual  
 17 case bases, and for the BPH to deny Petitioner based on a vir-  
 18 tual "**blanket-policy**" justified by simply reciting a **boiler-**  
 19 **plate** one-size-fits-all harague of circumstances and factors of  
 20 a crime regardless of the individual case factors violates due  
 21 process. (compare, In Re Minnis (1972) 7 Cal.3d 639, 646; Also  
 22 see, In Re Lee 49 Cal. Rptr. 3d 931, 936, 143 Cal.App.4<sup>th</sup> 1400,  
 23 p. \_\_\_\_:

24  
 25  
 26 "The test is not whether some evidence sup-  
 27 ports the reasons...for denying parole, but  
 28 whether some evidence indicates a parolee's  
 release unreasonably endangers public  
 safety", furthermore, "some evidence of the  
 existence of a particular factor does not

1 necessarily equate to some evidence the pa-  
2 rolee's release unreasonably endangers pub-  
3 lic safety."

4 Following, this thread of reasoning, Petitioner further ar-  
5 gues that all First Degree Murders by definition and/or nature  
6 involve some callousness, i.e., lack of usual emotion/sympathy,  
7 some level of emotional insensitivity, indifference to the feel-  
8 ing and suffering of others, etc..., (Rosenkrantz -II and Ma-  
9 yard, Ibidem); however, parole is **the rule** rather than the ex-  
10 ception (P.C. §3041(a); Ramirez, supra, 114 Cal.Rptr.2d 381,  
11 397), and the conviction of a First Degree Murder does not auto-  
12 matically render one unsuitable for parole. Therefore, to demon-  
13 strate an exceptionally callous disregard for human suffering,  
14 the offense in question must have been committed in a more ag-  
15 gravating or violent manner than that ordinarily shown in the  
16 commission of a First Degree Murder. (Scott-I, supra, (2004) 119  
17 Cal.App.4<sup>th</sup>, p.891, 15 Cal.Rptr.3d 32, p.\_\_\_\_; see, In Re Van  
18 Houten (2004) 116 Cal.App.4<sup>th</sup> 339, in Scott-I, **Van Houten** was  
19 found to be the "**sort of gratuitous cruelty require**" to be more  
20 violent or aggravated than ordinary, and thus, especially excep-  
21 tional or particularly.)  
22  
23  
24

25 In sum, there is no evidence what so ever that Petitioner's  
26 crime is particularly egregious or exceptional that it is justi-  
27 fied by the BPH to use his committed offense as a primary factor  
28 to deny him parole after serving the statutory minimum and

1 considering the statutory mandate that the BPH shall normally  
2 set a parole date at Petitioner's "Initial" parole hearing (P.C.  
3 §3041(a)), and because Petitioner's crime does not fall outside  
4 the parole board's own **Matrix Table** guidelines which display  
5 scenarios with common facts and circumstances that are expected  
6 during the commission of a First Degree Murder (Title 15, CCR,  
7 §2403(a)), hence, further proof that Petitioner's crime was not  
8 particularly egregious or especially exceptional (In Re Dannen-  
9 berg 125 Cal.Rptr.2d 458, 469, detailed matrix of various fac-  
10 tors); and because the BPH continued to characterized or regard  
11 Petitioner's crime as it is more violent and aggravating than  
12 what is necessary to sustain the conviction and any factors left  
13 over that the parole board attempts to utilize to deny Peti-  
14 tioner parole are not tantamount to a life sentence, Peti-  
15 tioner's due process was violated.

## 18 II

19  
20  
21 BECAUSE THE BPH DENIED PETITIONER MULTIPLE (TWO) YEARS BEFORE HE  
22 MAY BE RECONSIDERED FOR PAROLE, PETITIONER'S DUE PROCESS, PLEA  
23 BARGAIN, AND THE EX POST FACTO CLAUSE WERE VIOLATED

24 A) On 11-17-05, a parole hearing was conducted by the BPH  
25 to consider Petitioner for release on parole; Petitioner was de-  
26 nied two (2) years parole. Petitioner contends that he has a  
27 constitutionally protected liberty interest, and thus, an  
28

1 expectancy to receive annual parole consideration reviews after  
2 reaching his Minimum Eligible Parole Date (MEPD - 1995) based on  
3 the mandatory language and the substantive predicate of govern-  
4 ing statute, i.e., Cal.P.C. §3041.5(b)(2) which reads in perti-  
5 nent part:

6 "The board shall hear each case annually...except...two...  
7 if the board finds that it is not reasonable to expect  
8 that parole would be granted...following year."

9 The mandatory "**shall**" language in conjunction with the substan-  
10 tive predicate starting with the prepositional phrase "...**if the**  
11 **board finds...**", creates an expectancy that Petitioner will be re-  
12 considered for parole no later than the following year unless  
13 there is **good cause** to differ him longer, and thus, establish a  
14 liberty interest worthy of "adequate" due process procedural  
15 protection. (Board of Pardons V. Allen 96 L.ed.2d 303, 313, 482  
16 U.S. 369, 107 S.Ct. 2415, citing Greenholtz V. Nebraska Penal  
17 Inmates 442 U.S. 1, 12; McQuillion V. Duncan 306 F.3d 895, 901-  
18 902.)

19  
20  
21 Petitioner strongly contends that his liberty interest to  
22 receive annual parole hearing is not at the time adequately pro-  
23 tected by procedural due process. According to statute (P.C.  
24 §3041.5(b)(2)(B), the BPH must state the basis for a multiple  
25 year denial of parole; however, the BPH has established a prac-  
26 tice of stating the reasons for denying him parole which is an  
27 automatic one year difference and then the BPH in a separate  
28

1 stipulation will essentially recite the same reason it just used  
2 to deny him parole to **enhance** the denial by more than one year.  
3 (EX.-A, pp.96-107, CERTIFIED TRANSCRIPTS OF 2005 BPH HEARING.)  
4 The California Supreme Court in In Re Jackson, infra, stated  
5 that when parole consideration is postponed beyond the one year  
6 rule, the BPH must make a separate stipulation to justify a mul-  
7 tiple year difference an that the reasons, "...may involve some of  
8 the same facts on which the unsuitability determination is  
9 based." , 39 Cal.3d 464, 479, Id.; the BPH's recent practice be-  
10 lies the Jackson Court's opinion which was attempting to elimi-  
11 nate a long standing "stated" practice where the BPH would just  
12 "Ditto" or merge the reasons for denying parole and differing pa-  
13 role consideration multiple years without any further considera-  
14 tion (at p.78, Id.) which is why the Court did not say that "**the**  
15 **BPH may use all the same reasons**" for both denying and differing  
16 parole or else a separate stipulation would have been in effect  
17 meaningless.

18  
19  
20 Furthermore, Petitioner vies that any authority the BPH has  
21 to make an "**exception**" to deny Petitioner parole consideration  
22 multiple years **should not swallow the rule** that he is entitled  
23 to receive annual reviews thereafter reaching his MEPD. (com-  
24 pare, In Re Ramirez 114 Cal.Rptr.2d 381, 397.) Moreover, the BPH  
25 has used its authority to deny Petitioner two (2) years parole  
26 consideration arbitrarily not based on any merit or whether he  
27  
28

1 could be reasonably paroled or not paroled the following  
2 year[s]; even the Court in Jackson, supra, recognized the impor-  
3 tance of the right to annual reviews and inferred that not all  
4 multiple year denials even with a separate stipulation may be  
5 justified. (Id., 39 Cal.3d, p.477, fn.12.)

6 Although, denying Petitioner parole consideration for mul-  
7 tiple years may have been initially justified since statute does  
8 allow such differences with good cause, however, continuous re-  
9 liance essentially on unchanging factors to deny Petitioner his  
10 liberty interest or reasonable presumption that he will be al-  
11 lowed to apply for parole on an annual basis or the following  
12 year may violate due process. (compare, Biggs V. Terhune (9<sup>th</sup>  
13 Cir., 2003) 334 F.3d 910, 917.) The BPH should not deny Peti-  
14 tioner parole consideration multiple years without first estab-  
15 lishing a "**factual underpinning**" that would constitute good cause  
16 (compare, McQillion, supra, 306 F.3d, p.902; In Re Caswell  
17 (2001) 92 Cal.App.4<sup>th</sup> 1017, 1027, 112 Cal.Rptr.2d 462; In Re  
18 Scott-I 15 Cal.Rptr.3d 32, 50) to explain or demonstrate why the  
19 unchanging factors relied on are reasonably relevant to Peti-  
20 tioner's presumptive right to annual reviews that it is not rea-  
21 sonable to expect that he would receive a parole date the fol-  
22 lowing year; instead, the BPH mouthed off "conclusionary words"  
23 (Scott-I, Ibid.) to enhance Petitioner's denial of parole multi-  
24 ple years based on nothing more than just repeating all of the  
25  
26  
27  
28

1 same reasons for denying him parole in the first place. (EX.-A,  
2 pp.96-107, BPH, 2005, HEARING DENIAL.)

3 Therefore, because Petitioner was denied parole for multi-  
4 ple years arbitrarily based on circumstances that are never go-  
5 ing to change and without first establishing a "factual under-  
6 pinning" to constitute good cause in order to determine why it  
7 is not reasonable to expect Petitioner to be found suitable for  
8 parole the following year, Petitioner's due process was abro-  
9 gated.  
10

11 B) The BPH used the nature of the committed offense to  
12 first deny Petitioner parole which is an automatic one denial of  
13 parole and then used the same element of the crime to enhance  
14 his parole denial one more year (for a total of two years) at  
15 his BPH, 2005, parole consideration hearing (EX.-A, pp.96-107);  
16 this constitutes an impermissible "dual use" [elements] to en-  
17 hance punishment (Cal.Rules of Court, Rule 4.420(d); People V.  
18 Jefferson 21 Cal.4<sup>th</sup> 86, 96, uniform terms called for in P.C.  
19 §3041(a) are analytically the same as determinate sentences un-  
20 der P.C. §1170); therefore, Petitioner's due process was vio-  
21 lated by the BPH.  
22  
23

24 C) At the time of Petitioner's committed offense, Janu-  
25 ary, 1982, a defendant convicted of First Degree Murder was en-  
26 titled to annual parole reviews after reaching his Minimum eli-  
27 gible Parole Date or MEPD. (West Ann.Cal.P.C. §3041.5.)  
28

1 In 1983, Petitioner accepted a plea bargain which required  
2 that he plead guilty to First Degree Murder; Petitioner was sen-  
3 tenced to 25 Years to Life. After Petitioner's attorney, C.  
4 Brown, advised him of the true consequences of the plea bargain,  
5 i.e., Petitioner would be eligible for parole after serving his  
6 statutory minimum (MEPD, 12-20-05) and, most significant, that  
7 he would be allowed to apply for parole on an annual basis upon  
8 crossing his MEPD, Petitioner was finally persuaded to accept  
9 the plea agreement based on this advised. ("A plea agreement is,  
10 in essence, a contract between the defendant and the prosecu-  
11 tor...", People V. Cunningham (1996) 49 Cal.App.4<sup>th</sup> 1044, 1047;  
12 "When the state enters a plea bargain with a criminal defendant,  
13 it receives a immediate and tangible benefit, such as promptly  
14 imposed punishment without the expenditure of prosecutorial re-  
15 sources.", Newton V. Rumery (1987) 480 U.S. 386, 394.

16  
17  
18 Petitioner reasonably understood that the law in effect at  
19 the time of his committed offense would be incorporated auto-  
20 matically into his plea agreement. The court and the prosecution  
21 are fully aware of, and rely on, the fact that when a person en-  
22 ters a plea to murder he is focused on, and motivated by, the  
23 prospect of parole pursuant to the process then in place. (see,  
24 Brown v. Poole (2003) 337 F.3d 1155, citing, INS V. St.Cyr  
25 (2001) 533 U.S. 289, 322-323, 325.)  
26  
27  
28

1 Thus, because the BPH is ignoring the law in place at the  
2 time of Petitioner's committed offense in respect to parole pro-  
3 cedures that he understood would be incorporated into his subse-  
4 quent plea agreement, Petitioner's pleas agreement has been  
5 breached; he is entitled to the benefits of his plea agreement  
6 with the state and prosecutor to be enforced accordingly that  
7 Petitioner is entitled to apply for parole annually as per the  
8 agreement he understood and relied on at the time.  
9

10 D) Any change in law that is applied retroactively to Pe-  
11 titioner which increases the time between parole consideration  
12 hearings after Petitioner has served more than 23 years, has  
13 been convicted of one murder, has conducted himself as virtually  
14 a model inmate the past eighteen (18) years prior to his, 2005,  
15 hearing and 25 years to date, and has a definite liberty  
16 interest in receiving parole, such a law applied this late in  
17 the process does violate the Ex Post Facto Clause by running the  
18 high risk of significantly increasing his time of confinement in  
19 his individual case.  
20  
21

22 At time of Petitioner's committed offense, January, 1982,  
23 he would have been entitled to annual parole consideration re-  
24 views; Petitioner has a liberty interest, and thus, a reasonable  
25 expectation to receive a parole date at every parole considera-  
26 tion hearing (McQillion, supra, 309 F.3d, pp.901-903); the Leg-  
27 islature at the time of Petitioner's committed offense contem-  
28

1 plated that this expectation or presumption of being granted pa-  
2 role would extend every year following Petitioner's MEPD based  
3 on the mandatory language of the governing statute. (P.C.  
4 §3041.5.)

5       Moreover, when Petitioner accepted his plea bargain, he be-  
6 lieved that he had a high expectation that he would be allowed  
7 to apply for parole annually upon crossing his MEPD as long as  
8 he conducted himself well for a significant period of time, and  
9 Petitioner never thought that this high expectation to parole  
10 annually would be negated by a law that was not applicable at  
11 the time of his committed offense which creates a substantial  
12 **lower or delayed** expectancy of parole that goes from an annual  
13 basis to a multiple year basis (up to five year); therefore, by  
14 lowering his expectations to parole on a **whim** by denying inmates  
15 multiple years regularly, he contends that this increases his  
16 punishment severely or makes his punishment more onerous; Peti-  
17 tioner also argues that this change in law does run the high  
18 risk of increasing his time of confinement because by California  
19 parole law, he had a reasonable expectation to parole on an an-  
20 nual basis upon reaching his MEPD.

21       Furthermore, Petitioner does not belong to a **subclass** of  
22 inmates serving indeterminate sentences that do not have a rea-  
23 sonable expectation to parole (those inmate convicted of multi-  
24 ple murders. (CDC V. Morales 131 L.Ed.2d 588, 597 (1995), 514  
25  
26  
27  
28

1 U.S. 499, 115 S.Ct. 1597.) Hence, applying such new provisions  
2 (multiple year denials) retroactively to this distinct **subclass**  
3 of inmates convicted of more than one murder is not likely to  
4 increase the severity of punishment only because these inmate  
5 do not have a reasonable expectation to parole, and thus, does  
6 not offend the Ex Post Facto Clause. Petitioner belong to the  
7 **Greater Class** of inmates serving a life sentence with a possi-  
8 bility of parole that does have a reasonable expectation to pa-  
9 role. Nevertheless, the California Supreme Court in Jackson, su-  
10 pra, said:

12 "Obviously the opportunity to be heard is an important  
13 right. Restrictions on that right may have significant  
14 consequences. For this reason, not every retroactive  
15 encroachment on the right to annual review will pass  
16 muster under ex post facto principles as merely proce-  
17 dural. Each case must be determined on its own facts.  
(Beazell V. Ohio, supra, 269 U.S., at p.171; People V.  
Smith, supra, 34 Cal.3d, at p.260.)",

18 Id., (1985) 39 Cal.3d 464, 477, fn.12; petitioner contends that  
19 his is such a case in point.

20 Moreover, the U.S. Supreme Court also inferred that the  
21 more denials of parole an inmate had received the higher his ex-  
22 pectation and percentage of probability of actually receiving a  
23 parole date at his following parole consideration hearing  
24 (Morales, Ibid.) If Petitioner had received annual reviews from  
25 the time that he should have been scheduled for his "Initial"  
26 Parole consideration hearing, i.e., one year before his MEPD  
27 (2004, not 2005), as statute mandates, Petitioner would have had  
28

1 three (3) denials of parole by now, and thus, would have had  
2 even a higher expectation than he does now have according to  
3 Morales , Id.. Therefore, applying a provision that was to be-  
4 come effective after Petitioner's committed offense that allows  
5 multiple year exceptions to the annual review parole considera-  
6 tion mandate (P.C. §3041.5) should not apply to Petitioner's  
7 individual case; applying such an exception this late into Peti-  
8 tioner's confinement **does create a sufficient risk of increasing**  
9 **the measure of punishment attached to the cover crime** also in  
10 light of the lack of fair notice before Petitioner accepted his  
11 plea agreement, more so, because the BPH has grown accustomed to  
12 a gradation practice where it denies inmates parole multiple  
13 years many times before it allows annual reviews for again many  
14 more times until on a whim it grants parole; therefore, it is  
15 fair to say that the BPH essentially eliminates Petitioner's  
16 liberty interest to reasonably expect a grant of parole at his  
17 following parole consideration hearing if he received a multiple  
18 year denial at his prior BPH, 2005, parole consideration hear-  
19 ing. Petitioner has as never heard in the 25 years of his incar-  
20 ceration that an inmate had gone from a multiple year denial to  
21 a following grant of parole; if this ever happened, it has not  
22 happened often enough to be significant.

23  
24  
25  
26  
27  
28  
Petitioner argues that his case should be reviewed indi-  
vidually not in a "pro forma" style bunch as the BPH thinks it

1 is proper by relying on Morales, Id., in such cases; the U.S.  
2 Supreme Court in a later case also stated that states should not  
3 try to use Morales as a model to avoid offending the Ex Post  
4 Facto Clause when making such parole procedural changes, and  
5 thus, by virtue inferred that the **State** of California should  
6 also not rely on Morales as a model to circumvent Ex Post Facto  
7 violations when making future parole procedural changes and ap-  
8 plications which the BPH has taken liberty to do at every turn.  
9 (Garner V. Jones (2002) 146 L.Ed.2d 236, 245.)

11 When Petitioner accepted his plea bargain agreement, he was  
12 never advised or informed that a change in law could possibly be  
13 applied retroactively that would essentially increase his con-  
14 finement by delaying his application for parole nor could he  
15 contemplate this at the age of nineteen (19) and without a basic  
16 education, thus, violating Ex Post Facto provisions.

#### 18 CONCLUSION

19 For the above stated reasons, the relief sought in the Pe-  
20 tition and contended in its Memorandum of Points and Authority  
21 should be granted.

#### 23 PARTIES

24 25. Petitioner is a prisoner of the State of California and  
25 presently incarcerated at California State Prison (CSP) - Ca-  
26 lipatria, Calipatria, California.

1 26. Respondent, T. Ochoa, is Petitioner's custodian, Warden  
2 of CSP-Calipatria.

3 27. Petitioner contends that Respondent is keeping him in  
4 custody in violation of **due process** and **ex post facto** rights.  
5

6  
7 **CONTENTIONS**

8 **I**

9 **BECAUSE PETITIONER WAS DENIED PAROLE PRIMARILY BASED**  
10 **ON HIS COMMITTED OFFENSE WHICH IS NOT PARTICULARLY EGREGIOUS,**  
11 **PETITIONER'S DUE PROCESS WAS VIOLATED**

12 **II**

13 **BECAUSE THE BPH DENIED PETITIONER PAROLE MULTIPLE YEARS, PETI-**  
14 **TIONER'S PLEA BARGAIN, DUE PROCESS, AND EX POST FACTO PROVISIONS**  
15 **WERE VIOLATED**

16 **PRAYER FOR RELIEF**

17 28. Petitioner is without remedy save by writ of habeas  
18 corpus, WHEREFORE, Petitioner prays the Court:

- 19 1) Issue a writ of habeas corpus;  
20 2) Declare the rights of the parties;  
21 3) Declare that Petitioner's committed offense is not "particu-  
22 larly egregious" to justify denial of parole, and thus, com-  
23 mitted offense is not more violent or aggravating than the  
24 minimum necessary to sustain the conviction; hence, order a  
25 new hearing and/or order the BPH to not continue relying on  
26 the committed offense at any future parole hearing to justify  
27 denial of parole;  
28

- 1 4) Declare that even if the committed offense is "particularly
- 2 egregious", which Petitioner's in not, continued reliance on
- 3 **UNCHANGING, IMMUTABLE, FACTORS** could violate due process;
- 4 5) Declare that Petitioner does have a liberty interest in and
- 5 is entitle to Annual Parole Reviews;
- 6 6) Appoint counsel and/or award reasonable attorney fees; and
- 7 7) Grant all other discovery, relief, and/or motion the Court
- 8 deems necessary to meet the ends of justice.
- 9

10 I, Louis Castillo, declare, under penalty of perjury, that  
11 I am over the age of eighteen (18) and that all of the facts  
12 stated above are true and correct.

13 Date: 6-8-08, at Calipatria, California.

14 Respectfully Submitted,

15 Luis Castillo  
16 Luis Castillos, In Pro Per

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

VERIFICATION

I am a layman in the practice of law, and I am totally reliant on other inmates to assist me in legal matters. Thus, I implore this Court not to hold me to the standard of a member of the California State Bar.

I, Luis Castillo, declare, under penalty or perjury, that I am over the age of eighteen (18) and that all of the above stated facts are true and correct.

Date: 6-8-08, at Calipatria, California.

Luis Castillo  
Luis Castillo, (Declarant)

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## **EXHIBITS A**

(CERTIFIED TRANSCRIPT OF 2005 BPH HEARING)

INITIAL PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life )  
Term Parole Consideration )  
Hearing of: )  
LUIS CASTILLO )  
----- )

CDC Number C-73437

**INMATE  
COPY**

CALIPATRIA STATE PRISON

CALIPATRIA, CALIFORNIA

NOVEMBER 17, 2005

9:00 A.M.

PANEL PRESENT:

Mr. Tom Sawyer, Presiding Commissioner  
Ms. Carol Bentley, Deputy Commissioner

OTHERS PRESENT:

Mr. Luis Castillo, Inmate  
Ms. Linda Buchalter, Attorney for Inmate  
Mr. Charles Caparella, Parole Representative  
Mr. Alanied, Correctional Counselor  
Mr. Jose Castillo, Inmate's Father  
Ms. Christina Barrett, Inmate's Sister  
Ms. Carmen Pankratz, Inmate's Sister  
Interpreter for Mr. Jose Castillo

CORRECTIONS TO THE DECISION HAVE BEEN MADE

|       |     |                       |
|-------|-----|-----------------------|
| _____ | No  | See Review of Hearing |
| _____ | Yes | Transcript Memorandum |

Kathryn Kenyon, Peters Shorthand Reporting

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--oOo--

1 a handgun. Fifteen through nineteen are all 211  
2 robberies. Twenty is 211 robbery with the use  
3 of a handgun. Twenty-one is 245, assault with a  
4 deadly weapon with a handgun, 12022.5, great  
5 bodily injury. Twenty-two, 236, false  
6 imprisonment, 12022.5, use of a handgun.  
7 Twenty-three and twenty-four are both 236, false  
8 imprisonment with the use of a handgun. Twenty-  
9 five is 211, robbery, 12022(a), armed with a  
10 firearm as well as 26 and 27. Those are all  
11 211, robbery. 12022A, armed with a firearm.  
12 Okay. This hearing is being tape recorded and  
13 for the purpose of voice identification each of  
14 us is required to state our first and last name,  
15 spelling our last name. When it comes to your  
16 turn, Mr. Castillo, after you spell your last  
17 name we would also like you to give us your CDC  
18 number as well. Do you understand?

19 **INMATE CASTILLO:** Yes, sir.

20 **PRESIDING COMMISSIONER SAWYER:** Okay. I  
21 will start. Tom Sawyer, S-A-W-Y-E-R.  
22 Commissioner.

23 **DEPUTY COMMISSIONER BENTLEY:** Carol  
24 Bentley, B-E-N-T-L-E-Y. Deputy Commissioner.

25 **INMATE CASTILLO:** Luis Castillo, C-A-S-T-  
26 I-L-L-O. CDC No. C-73437.

27 **PRESIDING COMMISSIONER SAWYER:** Thank

1 you.

2 **ATTORNEY BUCHALTER:** Linda Buchalter, B-  
3 U-C-H-A-L-T-E-R. Attorney for Mr. Castillo.

4 **PRESIDING COMMISSIONER SAWYER:** Thank  
5 you.

6 **MR. CAPARELLA:** Charles Caparella  
7 (phonetic). Assistant classification and parole  
8 representative (indiscernible).

9 **PRESIDING COMMISSIONER SAWYER:** Thank  
10 you.

11 **MR. ALANIED:** (Indiscernible)  
12 correctional counselor, last name A-L-A-N-I-E-D.

13 **PRESIDING COMMISSIONER SAWYER:** Speak up  
14 a little louder.

15 **MR. CASTILLO:** Jose Castillo, C-A-S-T-I-  
16 L-L-O.

17 **PRESIDING COMMISSIONER SAWYER:** Thank  
18 you.

19 **MS. BARRETT:** Christina Barrett. My last  
20 name is B-A-R-R-E-T-T.

21 **PRESIDING COMMISSIONER SAWYER:** Thank  
22 you.

23 **MS. PANKRATZ:** Carmen Pankratz. Last  
24 name P-A-N-K-R-A-T-Z.

25 **PRESIDING COMMISSIONER SAWYER:** Okay. At  
26 this time I'm going to swear in the interpreter.  
27 Would you raise your right hand, sir? Do you

1 solemnly swear or affirm that the testimony  
2 you're about to give in this hearing and the  
3 interpretation will be the truth, the whole  
4 truth, and nothing but the truth?

5 **THE INTERPRETER:** I do.

6 **PRESIDING COMMISSIONER SAWYER:** Thank  
7 you. We also have a correctional peace officer  
8 in the room for security purposes. Okay. Mr.  
9 Castillo, before you there should be Americans  
10 with Disabilities Act. Okay. Mr. Castillo, can  
11 I ask you to read that out loud and then I'm  
12 going to ask you what it means.

13 **INMATE CASTILLO:** The ADA, Americans with  
14 Disabilities Act. The Americans with Disability  
15 Act, ADA, is a law to help people with  
16 disabilities. Disabilities are problems that  
17 make it harder for some people to see, hear,  
18 breathe, talk, walk, learn, think, work, or take  
19 care of themselves than it is for others.  
20 Nobody can be kept out of public places or  
21 activities because of a disability. If you have  
22 a disability, you have a right to ask for help  
23 to get ready for your BPT hearing, get to the  
24 hearing, talk, read forms and papers, and  
25 understand the hearing process. BPT will look  
26 at what you ask for to make sure that you have a  
27 disability that is covered by the ADA and that

1 you have asked for the right kind of help. If  
2 you do not get help, or if you don't think you  
3 got the kind of help you need, ask for a BPT  
4 1074 grievance form. You can also get help to  
5 fill it out.

6 **PRESIDING COMMISSIONER SAWYER:** Very  
7 good. Thank you. What does that mean to you,  
8 sir?

9 **INMATE CASTILLO:** It means that if I  
10 don't understand something or -- excuse me. To  
11 me it would be like if I needed help with  
12 understanding or reading or comprehension.

13 **PRESIDING COMMISSIONER SAWYER:** Okay.  
14 That help's available to you.

15 **INMATE CASTILLO:** Yes, sir.

16 **PRESIDING COMMISSIONER SAWYER:** Okay.  
17 Very good. Thank you. The record reflects that  
18 you signed a BPT form 1073 which is a reasonable  
19 accommodation notice and request in accordance  
20 with the provisions of the Americans with  
21 Disabilities Act. Sir, you signed that last  
22 year on 9/23 of '04. You indicated on here you  
23 do not need help for your parole hearing and you  
24 also indicate you do not have a disability. Is  
25 that true?

26 **INMATE CASTILLO:** Yes, sir.

27 **PRESIDING COMMISSIONER SAWYER:** Okay. I

1 notice you're wearing glasses.

2 **INMATE CASTILLO:** Yes.

3 **PRESIDING COMMISSIONER SAWYER:** Okay.

4 You have a disability, okay, because you have  
5 your glasses with you. All right. As many in  
6 the room also suffer. Can you read with those  
7 glasses?

8 **INMATE CASTILLO:** Yes.

9 **PRESIDING COMMISSIONER SAWYER:** You read  
10 the form. It's a normal-size font and you read  
11 it well. So you don't have any trouble seeing  
12 across the room? Can you see us? Okay. You're  
13 very responsive so you can hear me well?

14 **INMATE CASTILLO:** Yes.

15 **PRESIDING COMMISSIONER SAWYER:** I'm going  
16 to send this, if I can have the police officer  
17 take this over to Ms. Buchalter. If you can  
18 make sure that that is a current and correct  
19 1073 form.

20 **ATTORNEY BUCHALTER:** That's correct.

21 **PRESIDING COMMISSIONER SAWYER:** Thank  
22 you. I'm going to ask you some questions. Do  
23 you have any problem walking up or down stairs  
24 or for distances of a hundred yards or more?

25 **INMATE CASTILLO:** No, sir.

26 **PRESIDING COMMISSIONER SAWYER:** Okay.

27 And we've already discussed your glasses and you

1 do have your glasses and indicate that you can  
2 read and see. And I've asked you about your  
3 hearing impairments. You say you have none.  
4 You can hear all right. Have you ever been  
5 included in triple CMS or EOP programs while in  
6 the institution?

7 **INMATE CASTILLO:** (Inaudible response.)

8 **PRESIDING COMMISSIONER SAWYER:** Okay.  
9 Have you ever taken psychotropic medications  
10 either while in prison or on the streets?

11 **INMATE CASTILLO:** No, sir.

12 **PRESIDING COMMISSIONER SAWYER:** How far  
13 did you get through school?

14 **INMATE CASTILLO:** Through the eighth  
15 grade.

16 **PRESIDING COMMISSIONER SAWYER:** Through  
17 the eighth grade.

18 **INMATE CASTILLO:** Yes.

19 **PRESIDING COMMISSIONER SAWYER:** Okay.  
20 Did you take any special education classes while  
21 you were growing up? You know, take some extra  
22 reading glasses or ESL?

23 **INMATE CASTILLO:** In prison or --

24 **PRESIDING COMMISSIONER SAWYER:** No, when  
25 you were growing up. Secondary education.

26 **INMATE CASTILLO:** ESL?

27 **PRESIDING COMMISSIONER SAWYER:** ESL.

1           **INMATE CASTILLO:** I do remember that.

2           **PRESIDING COMMISSIONER SAWYER:** Okay.

3 Well, your English is very good. Do you suffer  
4 from any disability that you would prevent you  
5 from participating in today's hearing?

6           **INMATE CASTILLO:** No, sir.

7           **PRESIDING COMMISSIONER SAWYER:** Okay.

8 All right. Are you okay with the ADA?

9           **ATTORNEY BUCHALTER:** Yes.

10           **PRESIDING COMMISSIONER SAWYER:** Thank  
11 you, Ms. Buchalter. Okay. I'm going to be  
12 reading the outline of the hearing procedure.  
13 This hearing is being conducted pursuant to  
14 Penal Code Section 3041, 3042, and the Rules and  
15 Regulations of the Board of Prison Terms  
16 governing parole consideration hearings for life  
17 inmates. The purpose of today's hearing is to  
18 consider your suitability for parole. In doing  
19 so we will consider the number and nature of the  
20 crimes you were committed for, your prior  
21 criminal and social history, and your behavior  
22 and programming since your commitment. We've  
23 had an opportunity to review your central file,  
24 and you will be given an opportunity to correct  
25 or clarify the record. We will consider your  
26 progress since your commitment, your counselor's  
27 report, your psychological report, and any

1 change in parole plans should be brought to our  
2 attention. We will reach a decision today and  
3 inform you whether or not we find you suitable  
4 for parole and the reasons for our decision. If  
5 you are found suitable for parole, the length of  
6 your confinement will be explained to you.

7 Before we go any further, I want to advise you  
8 that we expect you to be totally honest with us  
9 today.

10 **INMATE CASTILLO:** Yes, sir.

11 **PRESIDING COMMISSIONER SAWYER:** If you do  
12 not get a date today, this hearing will form the  
13 foundation for future hearings. If you do not  
14 get a date today, any false statements you make  
15 could have an adverse effect on your ability to  
16 get a date in the future. Do you understand?

17 **INMATE CASTILLO:** Yes, sir.

18 **PRESIDING COMMISSIONER SAWYER:** This is a  
19 very important hearing. If you do not get a  
20 date today, as I said, it will -- any bad  
21 information, that's why we take our time on this  
22 particular hearing. In future hearings you may  
23 not have to go through some of the -- if you  
24 don't get a date today, you may not have to go  
25 through some of the things that we are going  
26 through today so we're establishing a foundation  
27 here, and it's really important that you be very

1 honest with us. Nothing that happens here today  
2 will change the findings of the court. We're  
3 not here to retry your case. We are here for  
4 the sole purpose of determining your suitability  
5 for parole. This hearing is conducted in two  
6 phases. I will discuss with you the crime that  
7 you are committed for, your prior criminal and  
8 social history, your parole plans and any  
9 letters of support or opposition that may be in  
10 your file. Deputy Commissioner Bentley will  
11 discuss with you your progress since your  
12 commitment, your counselor's report, and your  
13 psychological evaluation. Once that is  
14 concluded, your attorney will be given the  
15 opportunity to ask you questions. Before we  
16 recess for deliberations, your attorney and you  
17 will be given an opportunity to make a final  
18 statement regarding your parole suitability.  
19 Your statement should be directed as to why you  
20 feel that you are suitable for parole. The  
21 victim's next of kin representatives will have  
22 an opportunity at that time to give a statement  
23 regarding the crime and your responsibility.  
24 And we will then recess, clear the room, and  
25 deliberate. Once we have made your -- once we  
26 have completed our deliberations, we will resume  
27 the hearing and announce our decision.

1 California Code of Regulations states that  
2 regardless of time served, a life inmate shall  
3 be found unsuitable for and denied parole if, in  
4 the judgment of the Panel, the inmate would pose  
5 an unreasonable risk of danger to society if  
6 released from prison. You have certain rights.  
7 These rights include the right to a timely  
8 notice of this hearing, the right to review your  
9 central file, and the right to present relevant  
10 documents. Has the inmate's rights been met,  
11 Ms. Buchalter?

12 **ATTORNEY BUCHALTER:** Yes.

13 **PRESIDING COMMISSIONER SAWYER:** Thank  
14 you. You also have a right to be heard by an  
15 impartial Panel. Is there any objections to  
16 that Panel?

17 **INMATE CASTILLO:** No, sir.

18 **PRESIDING COMMISSIONER SAWYER:** Okay.  
19 Thank you. You will receive a copy of our  
20 written, tentative decision today. This  
21 decision is subject to review by the Decision  
22 Review Unit by the entire meeting as body. It  
23 will become effective within 120 days. It's  
24 also subject to review by the governor. A copy  
25 of the tentative decision and a copy of the  
26 transcript will be sent to you. As of May 12th,  
27 2004, there were major changes limiting your

1 formal right to appeal Board decisions or  
2 actions directly to the Board. The old Board  
3 regulations were repealed. The current policy  
4 is entitled "Administrative Appeals  
5 Correspondence and Grievances Concerning Board  
6 of Prison Terms Decisions," and it's available  
7 at the prison law library. You are not required  
8 to admit your offense or discuss your offense,  
9 if you do not wish to do so. However, the Panel  
10 does accept as true the findings of the court,  
11 and you are invited to discuss the facts and  
12 circumstances of the offense if you desire. The  
13 Board will review and consider any prior  
14 statements you have made regarding the offense  
15 in determining your suitability for parole.  
16 Commissioner Bentley, is there any confidential  
17 material that will be used at this hearing  
18 today?

19 **DEPUTY COMMISSIONER BENTLEY:** We won't be  
20 using any.

21 **PRESIDING COMMISSIONER SAWYER:** Okay. Is  
22 there confidential material?

23 **DEPUTY COMMISSIONER BENTLEY:** Um-hmm.

24 **PRESIDING COMMISSIONER SAWYER:** Okay.  
25 I'm going to pass the hearing checklist marked  
26 Exhibit 1 to Ms. Buchalter. If you can help me  
27 with that. Compare that with your documents.

1           **ATTORNEY BUCHALTER:** I don't have the  
2 charges documents but I will certainly waive  
3 that. I just want to be sure they're not  
4 included in this maybe. It's the police report.  
5 Obviously I don't have a confidential folder and  
6 I wouldn't expect it, so I'm okay with this.

7           **PRESIDING COMMISSIONER SAWYER:** Okay.  
8 Thank you. And I'm going to cross on the  
9 miscellaneous here. This was a box checked that  
10 says "crime partner's parole decision" and I  
11 don't think you have that.

12           **ATTORNEY BUCHALTER:** That's true.

13           **PRESIDING COMMISSIONER SAWYER:** And  
14 I'm --

15           **ATTORNEY BUCHALTER:** It's in the  
16 confidential.

17           **PRESIDING COMMISSIONER SAWYER:** Right.  
18 And the confidential folder we have, but she  
19 does not have that. Do you have any additional  
20 documents you would like to submit?

21           **ATTORNEY BUCHALTER:** No.

22           **PRESIDING COMMISSIONER SAWYER:** Okay.  
23 Are there any preliminary objections?

24           **ATTORNEY BUCHALTER:** No.

25           **PRESIDING COMMISSIONER SAWYER:** Okay.  
26 Will the inmate be speaking with the Panel?

27           **ATTORNEY BUCHALTER:** He will.

1           **PRESIDING COMMISSIONER SAWYER:** About the  
2 commitment offense?

3           **ATTORNEY BUCHALTER:** Yes.

4           **PRESIDING COMMISSIONER SAWYER:** Okay.

5 Okay. Would you raise your right hand, sir.

6 Okay. Do you solemnly swear or affirm the  
7 testimony you are about to give in this hearing  
8 will be the truth, the whole truth, and nothing  
9 but the truth?

10          **INMATE CASTILLO:** Yes.

11          **PRESIDING COMMISSIONER SAWYER:** Thank  
12 you. Okay. We will make an inquiry here into  
13 the crime. I'm going to be reading from the  
14 January 2005 calendar in the Board report, Page  
15 1, commitment offense. Summary of crime:

16           "On January 10, 1982,  
17 approximately 1:15 a.m.,  
18 defendant entered Rusty's  
19 Hacienda Restaurant, South Boyle  
20 Avenue in Los Angeles, armed  
21 with handguns and shotgun.  
22 Approximately 125 customers were  
23 in the restaurant at the time.  
24 According to testimony of Manuel  
25 Bendana, B-E-N-D-A-N-A, who was  
26 working as a manager when three  
27 defendants entered. They were

1 not dressed in proper attire.  
2 They asked to use the bathroom.  
3 After what seemed an appropriate  
4 amount of time, he checked to  
5 see if they had left and was  
6 confronted by all three  
7 defendants in possession of  
8 handguns. They checked the  
9 manager's jacket to see if he  
10 had a gun and told him they  
11 wanted money. Castillo then  
12 went to the bar and shot at the  
13 ceiling with a shotgun and  
14 robbed customers and employees  
15 of money and jewelry. One of  
16 the customers present at the  
17 time was Ramine (phonetical).  
18 Castillo, C-A-S-T-I-L-L-O, an  
19 off-duty Los Angeles Police  
20 Department officer who was  
21 working as a restaurant security  
22 officer. When he heard the  
23 shotgun and saw people screaming  
24 and running, he drew his  
25 revolver and walked towards the  
26 end of the bar where he saw  
27 inmate Castillo holding a

1           shotgun. Officer Castillo put  
2           his gun in his waistband and  
3           when questioned by inmate  
4           Castillo as to whether he had a  
5           gun, he said no. He was ordered  
6           to lie face down on the floor  
7           with the barrel of the shotgun  
8           in his back. He was then  
9           searched and the gun was found.  
10          Inmate Castillo then ordered him  
11          to stand up and at gunpoint  
12          directed him to walk to the east  
13          end of the bar where she was  
14          handcuffed to victim Bendana. A  
15          few seconds later, he was  
16          ordered to lie down on the floor  
17          and shortly after that, heard  
18          one of the defendants yell, 'la  
19          placa,' L-A P-L-A-C-A, Spanish  
20          slang for police coming. At  
21          approximately 1:30 a.m. on  
22          January 10th, 1982, patrol  
23          officers Jay Nunez, N-U-N-E-Z,  
24          and Argomaniz, A-R-G-O-M-A-N-I-  
25          Z, responded to a possible  
26          robbery in progress. Upon their  
27          arrival, they were told by

1 another officer standing outside  
2 the robbery was in progress with  
3 suspects and possible hostages  
4 still inside. The two uniformed  
5 officers driving a marked LAPD  
6 car, went to the rear, saw three  
7 persons with their hands, bags  
8 in their hands running across  
9 the parking lot to a parked 1980  
10 Chevy in which the driver was  
11 waiting. They got in the car  
12 and sped away. As they  
13 approached the intersection of  
14 Santa Fe, shots were fired from  
15 suspect's vehicle at the patrol  
16 officers. Pursuit continued  
17 northbound Santa Fe toward 7th  
18 Street at which time Officer  
19 Mirabel, M-I-R-A-B-E-L, and  
20 Officer Lund, L-U-N-D, joined in  
21 the pursuit. Mirabel and Lund,  
22 also driving a marked patrol  
23 car, were driving southbound on  
24 Santa Fe Street when the  
25 defendants shot at them and  
26 their patrol car. Defendant's  
27 vehicle, traveling at a high

1 rate of speed, eventually spun  
2 out of control and stopped  
3 against the curb. Chase had  
4 covered a distance of 1.5 miles.  
5 As Officer Nunez and Argomaniz  
6 got out of the car at the  
7 intersection at 7th and  
8 Anderson, they observed the  
9 defendants with guns, firing  
10 shots at them. Officers  
11 returned fire. Officer Mirabel  
12 arrived and took up a position  
13 in the southwest corner of the  
14 building and saw the three  
15 defendants exchanging gunfire  
16 with Officer Nunez and  
17 Argomaniz. The defendants then  
18 observed Officer Mirabel at the  
19 time and then fired at him while  
20 they ran into a junkyard. An  
21 LAPD helicopter arrived on the  
22 scene and illuminated  
23 defendant's car and was also  
24 fired upon. Officers fired  
25 several arms from their service  
26 revolvers and suspects who had  
27 attempted to conceal themselves

1 from both ground units and the  
2 helicopter. The inmate's  
3 brother, Frank Castillo, was  
4 pulled from the car. He had  
5 sustained gunshot wounds to the  
6 head and died at the scene. At  
7 approximately 4:00 a.m.,  
8 codefendants Ledesma, L-E-D-E-S-  
9 M-A, and Prado, P-R-A-D-O,  
10 emerged from the salvage yard,  
11 where they had tried to hide,  
12 and surrendered without  
13 incident. Both had been wounded  
14 by gunfire and were taken by  
15 ambulance to White Memorial  
16 Hospital for treatment. Shortly  
17 thereafter, Luis Castillo was  
18 found in the salvage yard after  
19 a systematic search using a  
20 police dog. He was taken to  
21 White Memorial Hospital and  
22 treated for dog bite injuries.  
23 Officers recovered several bags  
24 of money and jewelry taken in  
25 the robbery as well as a sawed-  
26 off shotgun and several  
27 handguns. No officers were

1 injured in the gun battle. The  
2 information used in portraying  
3 circumstances of the commitment  
4 offense was taken from the  
5 probation officer's report."

6 The prisoner's version of this, he says:

7 "I remembered sitting in the  
8 parking lot in one of my  
9 codefendant's apartment  
10 buildings. As we sat, we  
11 thought on some quick money and  
12 the first thing that came across  
13 was the restaurant. We made  
14 quick plans and went in to try  
15 to rob the place.

16 Unfortunately, everything went  
17 wrong that night. The officers  
18 got there. We were trying to  
19 get away. Shots were fired and  
20 everything was done and said.

21 Two of my codefendants were shot  
22 in the back and my brother Frank  
23 was killed in the seat of the  
24 vehicle. I was later arrested  
25 from where I was hiding. I  
26 would like to express to the  
27 Board that I was a 19-year-old

1 man that was uneducated, had a  
2 cocaine habit, and made a lot of  
3 bad choices. The decisions I  
4 made as a young man cost my  
5 brother his life. I hurt my  
6 parents, my daughter. I lost my  
7 fiancée, my freedom, my nephew  
8 grew up without a father, and  
9 his wife became a young widow.  
10 And it was something that I have  
11 to live with for the rest of my  
12 life. I'm now 43 and that has  
13 taken advantage of the self-help  
14 program groups and learned to  
15 read, write, and spell. Because  
16 of hard work and a lot of help,  
17 I got my GED and took a four-  
18 year Christian college course  
19 from which I have graduated. I  
20 have learned that decisions and  
21 choices I made were all wrong  
22 and I have repented and  
23 regretted all the things I did  
24 as a young man. I would like  
25 the opportunity to get out and  
26 look after my father and help my  
27 daughter raise my grand kids."

1 The aggravating factors in this case:

2 "The inmate had opportunity to  
3 cease, but continued with the  
4 crime. The circumstances of the  
5 crime created potential for  
6 serious injuries to others of  
7 the multiple crimes, past  
8 criminal history, use of  
9 chemical weapon, use of alcohol  
10 and drugs in the crime, actively  
11 planned, conspired, and induced  
12 others to participate. The  
13 nature of the crime exhibited  
14 viciousness, cruelty, and  
15 callousness. There are no  
16 mitigating factors."

17 Do you want to talk about it a little bit? Tell  
18 me what you were thinking at the time? I read  
19 your statement and there is -- let me ask you  
20 this first of all. Is there anything that we  
21 need to clarify? Is there anything that I read  
22 that you feel was wrong?

23 **INMATE CASTILLO:** Other than we were not  
24 already shooting at the officers. We were  
25 shooting at the -- pretty much is --

26 **PRESIDING COMMISSIONER SAWYER:** You were  
27 shooting at the helicopter?

1           **INMATE CASTILLO:** Yeah. We did shoot at  
2 the helicopter. (Indiscernible) that it was  
3 (indiscernible) us and --

4           **PRESIDING COMMISSIONER SAWYER:** But you  
5 were shooting in the air. Why were you shooting  
6 in the air?

7           **INMATE CASTILLO:** We were just trying to  
8 get them to stay back so we could get away.  
9 That's what we were trying to do. We were just  
10 trying to get away. We never -- I never shot at  
11 anybody.

12           **PRESIDING COMMISSIONER SAWYER:** Um-hmm.

13           **INMATE CASTILLO:** (Indiscernible.) I  
14 know that -- I now know that they were doing  
15 their job.

16           **PRESIDING COMMISSIONER SAWYER:** Did you  
17 rough up Officer Castillo?

18           **INMATE CASTILLO:** Yes, sir.

19           **PRESIDING COMMISSIONER SAWYER:** You  
20 roughed him up?

21           **INMATE CASTILLO:** Yes, sir.

22           **PRESIDING COMMISSIONER SAWYER:** Okay.  
23 You said you didn't want to hurt an officer, but  
24 you did.

25           **INMATE CASTILLO:** Yes, I did.

26           **PRESIDING COMMISSIONER SAWYER:** You  
27 kicked him. Right?

1 INMATE CASTILLO: Yes, sir.

2 PRESIDING COMMISSIONER SAWYER: Okay.

3 While he was laying on the floor.

4 INMATE CASTILLO: Yes, sir.

5 PRESIDING COMMISSIONER SAWYER: Because  
6 he lied to you about not having a gun.

7 INMATE CASTILLO: Yeah. He pointed a gun  
8 at me and the best that I can recall, I know  
9 that he (indiscernible) he expected to be  
10 (indiscernible). We couldn't leave because  
11 (indiscernible) the gun and (indiscernible) took  
12 the shot at us and (indiscernible) and I do  
13 remember finding the gun and taking it while he  
14 was down and running out of the place, getting  
15 to the vehicle, and trying to get away.

16 PRESIDING COMMISSIONER SAWYER: Um-hmm.  
17 But you only went a mile and a half, all right,  
18 according to this report.

19 INMATE CASTILLO: Yes, sir. Well, the  
20 reason why I hesitate is because the blocks were  
21 like very long. And, yeah.

22 PRESIDING COMMISSIONER SAWYER: Well,  
23 somebody measured it.

24 INMATE CASTILLO: Oh.

25 PRESIDING COMMISSIONER SAWYER: Okay.  
26 What compelled you to come out of the junkyard?  
27 The dog?

1           **INMATE CASTILLO:** The truth is that I  
2   thought everybody was gone, and I came out. And  
3   as I got out, away from where I was hiding, I  
4   didn't see the dog and the dog's -- the dog had  
5   left and came back with some officers. And I  
6   was told to show them my hands and I did. They  
7   pulled me out and put me in handcuffs and  
8   (indiscernible).

9           **PRESIDING COMMISSIONER SAWYER:** Did you  
10   have some dog bites?

11          **INMATE CASTILLO:** Yes, sir.

12          **PRESIDING COMMISSIONER SAWYER:** Okay.  
13   And did they take you to the hospital and have  
14   those treated?

15          **INMATE CASTILLO:** Yes, sir.

16          **PRESIDING COMMISSIONER SAWYER:** And you  
17   had a shotgun?

18          **INMATE CASTILLO:** Yes, sir.

19          **PRESIDING COMMISSIONER SAWYER:** Sawed-  
20   off?

21          **INMATE CASTILLO:** I don't recall, sir.

22          **PRESIDING COMMISSIONER SAWYER:** Short?

23          **INMATE CASTILLO:** No. It wasn't short.

24          **PRESIDING COMMISSIONER SAWYER:** It was  
25   full length?

26          **INMATE CASTILLO:** Yes, sir.

27          **PRESIDING COMMISSIONER SAWYER:** Okay.

1 And you fired it into the ceiling?

2 **INMATE CASTILLO:** No, sir. A shotgun  
3 wasn't fired in that place. It was a .38 that  
4 was fired.

5 **PRESIDING COMMISSIONER SAWYER:** It was a  
6 .38. Okay. Who shot that?

7 **INMATE CASTILLO:** I couldn't tell you  
8 because it was very dark in the place. I had my  
9 back turned to whoever shot up at the air.

10 **PRESIDING COMMISSIONER SAWYER:** Now this  
11 place had a lot of people in it. Huh? So  
12 according to the report, there was 125 people.

13 **INMATE CASTILLO:** Yeah, I couldn't say,  
14 sir.

15 **PRESIDING COMMISSIONER SAWYER:** It was a  
16 big restaurant?

17 **INMATE CASTILLO:** No, it was small.

18 **PRESIDING COMMISSIONER SAWYER:** Small.

19 **INMATE CASTILLO:** Yes.

20 **PRESIDING COMMISSIONER SAWYER:** Okay.

21 And you took jewelry and money and stuff from  
22 people. You had some bags of money and jewelry?

23 **INMATE CASTILLO:** I had one bag, sir. I  
24 believe it was like watches and rings. I do  
25 remember holding onto a watch. There's really  
26 (indiscernible) money.

27 **PRESIDING COMMISSIONER SAWYER:** Was there

1 people screaming? Do you remember that?

2 **INMATE CASTILLO:** After the shot was  
3 fired, yes.

4 **PRESIDING COMMISSIONER SAWYER:** And  
5 running?

6 **INMATE CASTILLO:** I don't remember that.

7 **PRESIDING COMMISSIONER SAWYER:** Okay.  
8 Anybody crying?

9 **INMATE CASTILLO:** No, sir.

10 **PRESIDING COMMISSIONER SAWYER:** Okay.

11 Let's talk a little about your record here.  
12 Says that you had three juvenile probation files  
13 which have been destroyed. CII shows two  
14 arrests as a juvenile, 16-year-old for assault  
15 with a deadly weapon, nunchakus. You're good at  
16 nunchakus?

17 **INMATE CASTILLO:** The movie groups --

18 **PRESIDING COMMISSIONER SAWYER:** Yeah,  
19 Grizzly.

20 **INMATE CASTILLO:** And I made  
21 (indiscernible).

22 **PRESIDING COMMISSIONER SAWYER:** Yeah.  
23 Okay. And you were released for insufficient  
24 evidence.

25 **INMATE CASTILLO:** Yes.

26 **PRESIDING COMMISSIONER SAWYER:** Most of  
27 the time we have seen people carry nunchakus are

1 illegal weapons. Do you understand that?

2 **INMATE CASTILLO:** I didn't know that at  
3 the time.

4 **PRESIDING COMMISSIONER SAWYER:** Yeah.  
5 It's an illegal weapon. Most people hurt  
6 themselves more than they hurt anybody else with  
7 those.

8 **INMATE CASTILLO:** Yes.

9 **PRESIDING COMMISSIONER SAWYER:** It's a  
10 real art. Second arrest was on 6/14 of 1979 for  
11 12020, possession, manufacturing, selling  
12 dangerous weapons. What kind of weapon did you  
13 have?

14 **INMATE CASTILLO:** I don't know where they  
15 got that from, sir. I've never got arrested for  
16 anything like that.

17 **PRESIDING COMMISSIONER SAWYER:** It might  
18 have been the nunchakus.

19 **INMATE CASTILLO:** Yeah, because I've  
20 never been arrested for that.

21 **PRESIDING COMMISSIONER SAWYER:** When you  
22 were a juvenile?

23 **INMATE CASTILLO:** Yes, sir.

24 **PRESIDING COMMISSIONER SAWYER:** Okay.

25 When interviewed, the defendant said that he was  
26 arrested when he was 16 or 17 for an open  
27 container, placed on probation, and fined.

1 Denied any other arrest as a juvenile. Were you  
2 drinking at 16.

3 **INMATE CASTILLO:** I drank (indiscernible)  
4 and had a beer.

5 **PRESIDING COMMISSIONER SAWYER:** Were you  
6 drinking at 16?

7 **INMATE CASTILLO:** (Indiscernible).

8 **PRESIDING COMMISSIONER SAWYER:** A lot?

9 **INMATE CASTILLO:** No, sir.

10 **PRESIDING COMMISSIONER SAWYER:** Drugs?

11 **INMATE CASTILLO:** No, sir.

12 **PRESIDING COMMISSIONER SAWYER:** Okay.

13 When did you start drinking, doing drugs?

14 **INMATE CASTILLO:** At about the age of 17  
15 I had met a guy that I was working on his car  
16 and he introduced me to drugs but  
17 (indiscernible) took them. I mean, he didn't  
18 force me on anything. I was introduced to drugs  
19 at the age of 17.

20 **PRESIDING COMMISSIONER SAWYER:** What kind  
21 of drugs?

22 **INMATE CASTILLO:** It was cocaine,  
23 experimented with cocaine.

24 **PRESIDING COMMISSIONER SAWYER:** Okay. On  
25 10/14/1981. And this is the crime you are  
26 serving concurrent or is it consecutive? The  
27 other crime? The one a year earlier.

1           **ATTORNEY BUCHALTER:** I think it was  
2 consecutive.

3           **PRESIDING COMMISSIONER SAWYER:** Okay.  
4 This is a robbery in which you and two crime  
5 partners -- this a year before, this is 10/14 of  
6 '81 -- charged with a series of robberies which  
7 occurred in August, September, and October of  
8 1981 at various market drugstores in which safes  
9 were forcibly opened at gunpoint. Various  
10 customers in the store, mostly employees, were  
11 also robbed. Victims were threatened and  
12 intimidated and in one of the robberies at  
13 Ralph's, the defendants shot one of the victims  
14 in the stomach, resulting in the removal of his  
15 intestine and loss of his spleen, while he was  
16 kicked on the ground. During the pre-sentence  
17 investigation, the defendant said he might have  
18 done about four of the robberies with which he  
19 was charged but denied shooting anyone and  
20 claimed he was not -- he was involved because he  
21 was hanging around with the wrong people. Did  
22 they force you to do these robberies?

23           **INMATE CASTILLO:** No, sir.

24           **PRESIDING COMMISSIONER SAWYER:** Okay.  
25 Did you shoot this guy?

26           **INMATE CASTILLO:** No, sir.

27           **PRESIDING COMMISSIONER SAWYER:** Okay.

1 Who shot him?

2 **INMATE CASTILLO:** One of my codefendants.

3 **PRESIDING COMMISSIONER SAWYER:** Okay.

4 You were charged and convicted or did you just  
5 plead out in this case?

6 **INMATE CASTILLO:** We pleaded out.

7 **PRESIDING COMMISSIONER SAWYER:** Okay.

8 You pleaded to 211 robbery with the use of a  
9 firearm, 20 counts. Right?

10 **INMATE CASTILLO:** Yes, sir.

11 **PRESIDING COMMISSIONER SAWYER:** 245(a)

12 PC, one count. False imprisonment. Was it 236

13 PC, counts 22 through 24, use of a firearm with  
14 great bodily injury, allegation was count 21.

15 Convicted of all counts of allegations on 7/6 of  
16 1983. Sentenced for 23 years and 8 months; is  
17 that correct?

18 **INMATE CASTILLO:** Yes, sir.

19 **PRESIDING COMMISSIONER SAWYER:** What was  
20 going on there other than you said you were  
21 hanging around with the wrong people?

22 **INMATE CASTILLO:** You know, I grew up,  
23 quitting school at a young age to help my  
24 brother paint cars. And (indiscernible) the  
25 guys that I hanged around with because I  
26 participated willfully.

27 **PRESIDING COMMISSIONER SAWYER:** How old

1 were you at the time of these -- in 1981?

2 INMATE CASTILLO: Eighteen, I believe.

3 PRESIDING COMMISSIONER SAWYER: Eighteen.

4 Because you were 19 in '82 for those --

5 INMATE CASTILLO: That's right.

6 PRESIDING COMMISSIONER SAWYER: -- for

7 the other crime, the commitment offense.

8 INMATE CASTILLO: Yeah. I really can't

9 tell in words what happened. I grew up not

10 (indiscernible). My father always taught me to

11 work and treat people with respect and --

12 PRESIDING COMMISSIONER SAWYER: Were you

13 under the influence of anything when you were

14 doing this particular crime?

15 INMATE CASTILLO: No, sir.

16 PRESIDING COMMISSIONER SAWYER: You were

17 sober?

18 INMATE CASTILLO: It was just

19 (indiscernible).

20 PRESIDING COMMISSIONER SAWYER: For quick

21 money. How much money did all those crimes net

22 you?

23 INMATE CASTILLO: A couple hundred

24 dollars.

25 PRESIDING COMMISSIONER SAWYER: Really?

26 INMATE CASTILLO: (Indiscernible.)

27 PRESIDING COMMISSIONER SAWYER: And where

1 were these victims located during these August,  
2 September, October of '81, markets and  
3 drugstores? Where in Los Angeles was this?

4 **INMATE CASTILLO:** It was in Sylmar area.

5 **PRESIDING COMMISSIONER SAWYER:** Sylmar?

6 **INMATE CASTILLO:** Yes, sir.

7 **PRESIDING COMMISSIONER SAWYER:** And where  
8 did you live at the time?

9 **INMATE CASTILLO:** In (indiscernible).

10 **PRESIDING COMMISSIONER SAWYER:** That's  
11 kind of a quiet community. I used to live there  
12 at one time.

13 **INMATE CASTILLO:** Yes, it is. Like 20  
14 (indiscernible) very quiet.

15 **PRESIDING COMMISSIONER SAWYER:** Yeah.  
16 It's kind of a bedroom community to Los Angeles  
17 in the north valley. And this sentence is  
18 running concurrent --

19 **INMATE CASTILLO:** Yes.

20 **PRESIDING COMMISSIONER SAWYER:** -- with  
21 your 35 to life.

22 **INMATE CASTILLO:** Yes, sir.

23 **PRESIDING COMMISSIONER SAWYER:** And this  
24 is the 23 and 8 months. And you were -- this  
25 indicates you were on bail from your previous  
26 arrest when you committed the commitment  
27 offense; is that correct?

1           **INMATE CASTILLO:** Yes, sir.

2           **PRESIDING COMMISSIONER SAWYER:** How much  
3 was your bail for the --

4           **INMATE CASTILLO:** I don't know.

5           **PRESIDING COMMISSIONER SAWYER:** Do you  
6 know? Okay. Let's talk a little about you.  
7 Born in Mexico, one of eight children raised by  
8 your parents Jose and Delores Castillo. Says he  
9 came to this country illegally in 1964 with his  
10 family. Resided here ever since, but there is  
11 an INS hold detainer in your C file for  
12 violation of immigration laws. You attended  
13 school until the 9th grade. Dropped out at 17.  
14 Started working. Although your work history is  
15 sketchy, in a previous investigation, defendant  
16 said he had worked as a security guard for a  
17 couple of years. Is that true?

18           **INMATE CASTILLO:** Yes, sir.

19           **PRESIDING COMMISSIONER SAWYER:** And quit  
20 over a pay dispute. You also claimed that you  
21 worked as a gardener for about a year with Los  
22 Angeles City School Board.

23           **INMATE CASTILLO:** Yes, sir.

24           **PRESIDING COMMISSIONER SAWYER:** Which  
25 school did you work at?

26           **INMATE CASTILLO:** (Indiscernible) San  
27 Fernando Valley. And there is a junior high

1 around there. I can't recall the name of it,  
2 but we took care of three schools, and a high  
3 school.

4 **PRESIDING COMMISSIONER SAWYER:** You were  
5 on a crew?

6 **INMATE CASTILLO:** Yes, sir. We did  
7 (indiscernible) and garden work.

8 **PRESIDING COMMISSIONER SAWYER:** This is  
9 deja vu. I used to do that too, in that  
10 neighborhood.

11 **INMATE CASTILLO:** Yeah.

12 **PRESIDING COMMISSIONER SAWYER:** Yeah. In  
13 1980 and '82, you were laid off when you failed  
14 to pass your probation their term because you  
15 couldn't pass the test?

16 **INMATE CASTILLO:** Yes.

17 **PRESIDING COMMISSIONER SAWYER:** Okay.  
18 Never married. Sporadic on and off relationship  
19 with Yolanda Ontebros.

20 **INMATE CASTILLO:** Ontebros.

21 **PRESIDING COMMISSIONER SAWYER:** O-N-T-E-  
22 B-R-O-S. And you have a child?

23 **INMATE CASTILLO:** Yes, sir.

24 **PRESIDING COMMISSIONER SAWYER:** Who is  
25 24, now 25?

26 **INMATE CASTILLO:** Yes, sir.

27 **PRESIDING COMMISSIONER SAWYER:** Boy or

1 girl?

2 INMATE CASTILLO: She's a girl.

3 PRESIDING COMMISSIONER SAWYER: She's a  
4 girl. Okay. And you visit with her or does she  
5 visit with you?

6 INMATE CASTILLO: Yes, sir.

7 PRESIDING COMMISSIONER SAWYER: I think I  
8 read -- I have a letter from her, don't I?

9 INMATE CASTILLO: Yes, sir.

10 PRESIDING COMMISSIONER SAWYER: Yeah.  
11 You have a good relationship with her?

12 INMATE CASTILLO: Not really, because she  
13 really doesn't know me. She's come up to visit  
14 a few times.

15 PRESIDING COMMISSIONER SAWYER: Um-hmm.  
16 Does she correspond with you? Write?

17 INMATE CASTILLO: Yes, sir.

18 PRESIDING COMMISSIONER SAWYER: Do you  
19 phone her?

20 INMATE CASTILLO: Yes, sir.

21 PRESIDING COMMISSIONER SAWYER: She  
22 accepts your collect calls?

23 INMATE CASTILLO: Yes, sir.

24 PRESIDING COMMISSIONER SAWYER: Okay.  
25 Said here you've had -- according to defendant,  
26 he admitted injecting cocaine for three years  
27 every other day and had a 200-dollar-a-week

1 habit. Okay. If you were arrested -- if you  
2 went into custody at 19, that puts you starting  
3 about 16.

4 **INMATE CASTILLO:** No that's --

5 **PRESIDING COMMISSIONER SAWYER:** That's  
6 not true?

7 **INMATE CASTILLO:** No.

8 **PRESIDING COMMISSIONER SAWYER:** How long  
9 had you been using coke?

10 **INMATE CASTILLO:** I started experimenting  
11 when I was 17.

12 **PRESIDING COMMISSIONER SAWYER:** Okay.

13 **INMATE CASTILLO:** And it was towards the  
14 end of the year or something.

15 **PRESIDING COMMISSIONER SAWYER:** Do you  
16 have a 200-dollar-a-week habit?

17 **INMATE CASTILLO:** It's more of a -- I had  
18 a (indiscernible). Injected and I did it once  
19 or twice.

20 **PRESIDING COMMISSIONER SAWYER:** Okay.

21 **INMATE CASTILLO:** But it was more  
22 (indiscernible).

23 **PRESIDING COMMISSIONER SAWYER:** Okay.  
24 You deny the use of any other narcotics. You  
25 didn't try LSD, PCP?

26 **INMATE CASTILLO:** No, sir.

27 **PRESIDING COMMISSIONER SAWYER:** Meth

1 wasn't around as bad as it is today. Marijuana?

2 **INMATE CASTILLO:** No, sir.

3 **PRESIDING COMMISSIONER SAWYER:** Says you  
4 acknowledged the use of marijuana in this  
5 report. Castillo denied any gang affiliation.  
6 No gang?

7 **INMATE CASTILLO:** I knew a lot of people  
8 in gangs.

9 **PRESIDING COMMISSIONER SAWYER:** Um-hmm.  
10 Because there was gangs in that neighborhood.

11 **INMATE CASTILLO:** Yes.

12 **PRESIDING COMMISSIONER SAWYER:** But you  
13 didn't -- you didn't have any gang affiliation  
14 at all?

15 **INMATE CASTILLO:** No, sir.

16 **PRESIDING COMMISSIONER SAWYER:** Okay.  
17 Records indicate you are a past member of the  
18 Clanton Street Gang of North Hollywood. Is that  
19 true?

20 **INMATE CASTILLO:** No, sir. I went to  
21 school with them, but no.

22 **PRESIDING COMMISSIONER SAWYER:** Okay.  
23 There's no evidence of current affiliation. One  
24 of the defendant's brothers, Frank Castillo, was  
25 the victim in the present offense. One of the  
26 defendant's brothers, Frank Castillo, was the  
27 victim in the count one. Yes, we knew that.

1 Okay. Let's look at your future plans, what you  
2 plan on doing. Okay. "When I parole, I plan to  
3 make my home in Mexicali, BC." That's Baja  
4 California. Right?

5 **INMATE CASTILLO:** Yes, sir.

6 **PRESIDING COMMISSIONER SAWYER:**

7 "Where I can pursue the trades  
8 that I have been certified in.  
9 I will have a job the day I get  
10 out. Nunez, N-U-N-E-Z, Mechanic  
11 Shop in Mexicali, plan to save  
12 enough money to get my own body  
13 shop. I have saved -- I have  
14 money saved up from the time  
15 I've worked at CCI and PIA."  
16 How much money do you have saved up?

17 **INMATE CASTILLO:** A couple hundred  
18 dollars, sir.

19 **PRESIDING COMMISSIONER SAWYER:** I plan --  
20 I also plan to help preach on Sundays in  
21 Mexicali. It says "Christian." Is that the  
22 name of a church?

23 **INMATE CASTILLO:** Yes.

24 **PRESIDING COMMISSIONER SAWYER:**

25 "And help the pastor with  
26 whatever I can. I would like to  
27 continue to share my life

1 experience with the youth in  
2 Mexicali and the counselors that  
3 have visited the prison through  
4 the Straight Life Youth  
5 Diversion Program have expressed  
6 this, so if given the chance, I  
7 would be there for the youths.  
8 I plan to take care of my father  
9 and spend the last years of his  
10 life with him. I lost my mom in  
11 April of 2002."

12 Sorry about that. I saw that there was some  
13 newspaper articles that you were involved in.

14 **INMATE CASTILLO:** Yes, sir.

15 **PRESIDING COMMISSIONER SAWYER:** The  
16 Straight Life Program?

17 **INMATE CASTILLO:** Yes, sir.

18 **PRESIDING COMMISSIONER SAWYER:** Do you  
19 enjoy doing that?

20 **INMATE CASTILLO:** Yes.

21 **PRESIDING COMMISSIONER SAWYER:** Well, you  
22 just really light up when you talk about it.  
23 Your whole body language changed. Your smile  
24 got twice as big and your eyes started  
25 sparkling.

26 **INMATE CASTILLO:** It's a way of giving  
27 back.

1           **PRESIDING COMMISSIONER SAWYER:** Do you  
2 feel it's productive?

3           **INMATE CASTILLO:** Yes, sir.

4           **PRESIDING COMMISSIONER SAWYER:** How?

5           **INMATE CASTILLO:** We've had many groups  
6 come out. The youth, the adult ladies that have  
7 drug problems, and we share with them that we  
8 have been there, where they are at. We share  
9 with the kids that, you know, cutting classes,  
10 smoking a cigarette, leads to bigger things.  
11 The people that come out of the colleges, I will  
12 bring out students to ask us questions. They  
13 are going to be counselors. They are going to  
14 be judges. And I don't know. It's just a joy  
15 to be able to help, to give back to the  
16 community.

17           **PRESIDING COMMISSIONER SAWYER:** What kind  
18 of questions do they ask you?

19           **INMATE CASTILLO:** Mostly how do I feel  
20 about my brother's death is the biggest question  
21 I get. And I always tell them that it's  
22 something that I've lived with for the past 24  
23 years. It's hard. I think about the victims as  
24 well, because through the bible college that I  
25 took, I realized that I hurt a lot of people. I  
26 didn't know that I was hurting them by taking  
27 their money, their hard-earned money, their

1 jewelry. I didn't know that I was hurting  
2 people and I've come to realize that --

3 **PRESIDING COMMISSIONER SAWYER:** We have  
4 to stop a minute. We occasionally have to turn  
5 the tapes over.

6 **DEPUTY COMMISSIONER BENTLEY:** Okay. This  
7 is side two in the initial parole consideration  
8 hearing for Luis Castillo, CDC No. C-73437.

9 **PRESIDING COMMISSIONER SAWYER:** Thank  
10 you. Go ahead.

11 **INMATE CASTILLO:** I realize that I've  
12 hurt a lot of people and that, you know, I hurt  
13 my parents. And that's what we share with them  
14 is that they are hurting their parents because  
15 they work very hard to put, you know, clothes on  
16 their back and roof over their heads and the  
17 meals. I was a very selfish person and  
18 (indiscernible), please me all the time. I  
19 never thought about my fiancée or my parents.  
20 It was always me, me, me. And even the bible  
21 has taught me that, you know, I've sat many  
22 times with my father and told him that it isn't  
23 his fault. It was mine, because I made the bad  
24 choices. I made the bad decisions. And it was  
25 never his fault. He raised me to be a  
26 productive person and (indiscernible) work. And  
27 this is the stuff I share with these young kids

1 because a lot of these kids come in and they are  
2 laughing and they are making jokes and say well,  
3 I can come in here and do time. Well, sure  
4 anybody can come in here and do time, but you're  
5 in and you are out. You get tired of the same  
6 thing. And there is a lot of bad people in here  
7 that will teach you a lot of able things. And I  
8 tell them, you know, you got to be a strong  
9 person to stand up for yourself. Educate  
10 yourself because if you don't care for yourself,  
11 nobody else cares for you. The officers are  
12 here to secure the place. They are not  
13 babysitters. And I share with them those kinds  
14 of things. And a lot of times the counselors  
15 tell us, well, you're not going to reach  
16 everybody. But if we can reach one or two, then  
17 we can make a difference. And there's where the  
18 (indiscernible).

19 **PRESIDING COMMISSIONER SAWYER:** Good.  
20 Residence. If you are unable to reside in the  
21 United States, you plan to reside with your  
22 father, Jose, and fame friend Marco Antonio  
23 Aguilar, A-G-U-I-L-A-R, at the following  
24 address, and this is in Mexicali.

25 **INMATE CASTILLO:** Yes.

26 **PRESIDING COMMISSIONER SAWYER:** "If I am  
27 unable to stay in the United States I plan to

1 reside" -- if I'm able to stay, that you would  
2 stay with your father Jose in Valley -- Spring  
3 Valley, California. Is that still accurate?

4 **INMATE CASTILLO:** Yes, sir.

5 **PRESIDING COMMISSIONER SAWYER:** And is it  
6 still accurate with Marco Aguilar?

7 **INMATE CASTILLO:** Yes, sir.

8 **PRESIDING COMMISSIONER SAWYER:** Okay.

9 And you have employment, as I said before, Mr.  
10 Nunez has a mechanic shop in Mexicali. Okay.  
11 Also, the INS hold is A17175321. I have a  
12 letter from the district attorney, L.A. County  
13 District Attorney's Office, dated November 3,  
14 2005, signed by Lawrence C. Morrison, M-O-R-R-I-  
15 S-O-N, Deputy District Attorney, the Lifer's  
16 Hearing Unit. It says:

17 "The district attorney of Los  
18 Angeles County opposes parole  
19 for inmate Luis Castillo.  
20 Inmate, his brother Frank, and  
21 two confederates committed on  
22 armed robbery and of numerous  
23 patrons at Rusty's Hacienda  
24 Restaurant in Los Angeles.  
25 Inmate was armed with a sawed-  
26 off shotgun."

27 Where do they keep coming up with a sawed-off

1 shotgun?

2 **INMATE CASTILLO:** I haven't --

3 **PRESIDING COMMISSIONER SAWYER:** Okay.

4 I've got the police report. Maybe we will try  
5 to hunt that out. And the illegal weapon, it's  
6 fired it numerous times at pursuing police. Did  
7 you fire the shotgun --

8 **INMATE CASTILLO:** No, sir.

9 **PRESIDING COMMISSIONER SAWYER:** -- at  
10 police?

11 **INMATE CASTILLO:** Yes. I did fire from  
12 the vehicle.

13 **PRESIDING COMMISSIONER SAWYER:**  
14 Okay. "Pursuing police cars  
15 during the attempts to apprehend  
16 the fleeing robbers. Police  
17 helicopter was also shot at by  
18 robbers. Inmate's brother Frank  
19 was killed during the multiple  
20 exchanges of gunshots between  
21 the bandits and the police.  
22 Inmate was allowed to plead  
23 guilty to first-degree murder  
24 and 30 other counts including  
25 multiple attempt murder,  
26 robberies, and case total of 35  
27 years to life. In return, the

)

1 district attorney dropped  
2 special circumstances allegation  
3 that would have imprisoned the  
4 inmate for life without the  
5 possibility of parole. Inmate's  
6 sentence in this case runs  
7 concurrent with a sentence of 23  
8 years, 8 months which he  
9 received in Los Angeles, case  
10 number 149652, in a plea bargain  
11 exchanged for the guilty pleas  
12 to 27 counts of robbery and ADW,  
13 most of them armed. This case  
14 involved a series of robberies  
15 of markets and drugstores in the  
16 San Fernando Valley in August,  
17 September, October, of 1981,  
18 just moments before the life  
19 offense. Clearly, inmate is a  
20 vicious, dangerous, and  
21 determined criminal. All of  
22 those robberies did not deter  
23 him from engaging in extremely  
24 reckless and dangerous conduct  
25 at Rusty's Restaurant and  
26 robberies resulting in shoot  
27 out. While in prison, inmate

1 has received approximately  
2 twenty 115 serious rules  
3 violation, the most recent being  
4 1998. We note that several of  
5 these related to force and  
6 violence and several, notably  
7 weapons assault, stabbing,  
8 possession of alcohol, are  
9 actual felonies, since inmate is  
10 now a 31 counts in case number  
11 375075 plus 27 counts in case  
12 number 149652."

13 That's not correct, the case number.

14 **ATTORNEY BUCHALTER:** The (indiscernible)  
15 is not correct.

16 **PRESIDING COMMISSIONER SAWYER:** Okay. I  
17 think yeah he's gotten the 128s as well. We  
18 will sort that out.

19 **ATTORNEY BUCHALTER:** And the date.

20 **PRESIDING COMMISSIONER SAWYER:** The date?

21 **ATTORNEY BUCHALTER:** That would be a 128  
22 also.

23 **PRESIDING COMMISSIONER SAWYER:** Okay.  
24 For the record I'm going to clarify the case  
25 number since the inmate is now 31 counts in case  
26 number 375051, plus case number 149652. That's  
27 correct. It's a total of 58 strikes.

)

1 "Fifty-eight strikes. And under  
2 the three strikes law, we invite  
3 CDC to properly document and  
4 present to the local district  
5 attorney any further violations  
6 of law committed in prison so  
7 that he may be prosecuted for  
8 consecutive 25-to-life  
9 sentences. We believe the  
10 psychologist John Mangers  
11 (phonetical) 2004 assessment of  
12 the inmate's potential for  
13 violence -- if released from the  
14 free community, is about average  
15 for a 43 year-old male -- is  
16 absolutely without foundation.  
17 This assessment ignores the  
18 violent, predatory nature of the  
19 inmate's crime -- all of which  
20 are which were not even  
21 mentioned in the psych report.  
22 It seems to accept the inmate's  
23 version which is devoid of  
24 insight and acceptance of full  
25 responsibility for all of his  
26 crime. And we believe Axis II  
27 diagnosis of antisocial

)

1           personality improved found by  
2           Dr. T-A-V-O-U-L-A-R-I-S-A,  
3           psyche in 1992, is more cogent  
4           and persuasive. Assessment of  
5           the inmate. At the time of his  
6           plea, as the transcript of the  
7           legal section of the CDC packet  
8           shows, Pages 10 and 11, inmate  
9           was advised that he could spend  
10          the rest of his life in prison.  
11          We believe that's appropriate  
12          for the time -- at an  
13          appropriate time for the inmate  
14          to serve in the sentence.  
15          Consequently, we believe inmate  
16          possesses an unreasonable risk  
17          of public safety and opposes  
18          parole. Furthermore, based on  
19          the inmate's abysmal conduct in  
20          prison, which is entirely  
21          accurate, we believe that he  
22          should not even be considered  
23          for parole for five years.  
24          Thank you for this opportunity  
25          to share our views."  
26          Signed by Lawrence Morrison. Okay. In the  
27          letters we have quite a few letters. Okay.

1 This letter is dated November 29, 2004, from  
2 Frank Gustino Junior. Is that the victim's son?

3 **INMATE CASTILLO:** Yes, sir.

4 **PRESIDING COMMISSIONER SAWYER:** He feels  
5 it's time for you to be released. Family  
6 especially have been waiting for over 20 years  
7 to have him back in our lives. "Before my dad's  
8 death we were so close." How old is he now?

9 **INMATE CASTILLO:** About 28 or 27.

10 **PRESIDING COMMISSIONER SAWYER:** Okay.  
11 "He's a changed man since he's been in jail. A  
12 relationship has trailed. I'm excited about the  
13 possibility of being reunited and rebuild our  
14 friendship." He recognizes what you have been  
15 doing in jail. It's been 23 years since you've  
16 been able to look at him in the eyes and tell  
17 him that I love him. He's never come to visit?

18 **INMATE CASTILLO:** No, sir.

19 **PRESIDING COMMISSIONER SAWYER:** Okay.

20 Where does he live?

21 **INMATE CASTILLO:** He lives in  
22 (indiscernible).

23 **PRESIDING COMMISSIONER SAWYER:** Okay. "I  
24 have a letter on behalf of my children and  
25 myself. I'm missing my father. Would like to  
26 have him back in my life." This is your  
27 daughter?

1           **INMATE CASTILLO:** Yes.

2           **PRESIDING COMMISSIONER SAWYER:** How do  
3 you pronounce her first name?

4           **INMATE CASTILLO:** Dezery.

5           **PRESIDING COMMISSIONER SAWYER:** Dezery?

6 D-E-Z E-R-Y, Haimenez, H-A-I-M-E-N-E-Z. "I  
7 would like him to be a grandfather and a  
8 father." She's missing you. And you missed her  
9 wedding. The birth of her two children?

10          **INMATE CASTILLO:** Yes, sir.

11          **PRESIDING COMMISSIONER SAWYER:** She sent  
12 pictures. Feels you are a good man. Feels you  
13 have changed. She's 24 years old and "all I  
14 know is he likes scrambled eggs. As funny as it  
15 sounds, it's sad to me." And it's signed in  
16 addition to Dezery, it's signed by Isaiah  
17 Haimenez and Andrew Haimenez. How old are your  
18 grandchildren?

19          **INMATE CASTILLO:** They are seven and  
20 eight.

21          **PRESIDING COMMISSIONER SAWYER:** Okay. I  
22 have some documents and some translations. I  
23 have a letter from John J, Castillo. It's dated  
24 September 28, 2004. Who is -- that's your  
25 brother?

26          **INMATE CASTILLO:** Yes, sir.

27          **PRESIDING COMMISSIONER SAWYER:** Okay.

1 Talks about your regrets and you have repented.  
2 They pray for you every day. You were dumb,  
3 young, and naive, not thinking of the  
4 consequences. You've been through a lot in  
5 prison. He believes you're a different person.  
6 "He has committed his life to Lord Jesus Christ,  
7 and loyal servant to God." He's been to visit  
8 with you?

9 **INMATE CASTILLO:** Yes, sir.

10 **PRESIDING COMMISSIONER SAWYER:** He talks  
11 about that. And they are praying for you and  
12 they miss you very much. A letter from Theresa  
13 Castillo. September 23rd, '04. This is your  
14 sister?

15 **INMATE CASTILLO:** Yes, sir.

16 **PRESIDING COMMISSIONER SAWYER:** Talks  
17 about your incarcerations, your family, how  
18 young you were at the time. You found faith  
19 since you have been down. Says she's very  
20 close. Does she visit with you?

21 **INMATE CASTILLO:** Yes, sir.

22 **PRESIDING COMMISSIONER SAWYER:** Okay.

23 And she's willing to provide anything he needs  
24 including an address that he can consider this  
25 his home any time. She lives in Chula Vista,  
26 California. I have a letter from Marco Aguilar,  
27 and he lives in Mexicali. And he's offering a

1 place to reside. Being friends of the family,  
2 he's informed that there's a pending  
3 deportation. You could live with him and his  
4 family and will provide him with a home to live  
5 when he comes back to our country. Okay. And  
6 that's dated September 23rd, '04. Do you feel  
7 his offer still stands?

8 **INMATE CASTILLO:** Yes.

9 **PRESIDING COMMISSIONER SAWYER:** Okay.  
10 And I have a letter: "In regards to my son, Luis  
11 Castillo, being distanced from his family.  
12 Please consider giving him his freedom. I live  
13 alone in my house. I need for him to be with  
14 me. He's been a great moral support." And he's  
15 waiting for you to be free. I have a letter  
16 from your niece, Mary Jane Priseno.

17 **INMATE CASTILLO:** Yes.

18 **PRESIDING COMMISSIONER SAWYER:** Is that  
19 your niece? P-R-I-S-E-N-O. "My uncle's been  
20 incarcerated for 22 years." This is notarized  
21 on September 23, 2004. But she believes you're  
22 ready to be released and enjoy life with your  
23 family. He's dedicated to the Lord. And  
24 (indiscernible) a new start. Start a family  
25 again. I have a letter from Mike Castillo,  
26 dated July 14th, 2004. This is your nephew?

27 **INMATE CASTILLO:** Yes, sir.

1           **PRESIDING COMMISSIONER SAWYER:** It's  
2 actually from Mr. and Mrs. Mike Castillo in  
3 Spring Valley. Feels you paid your debt to  
4 society. Would like us to consider you for  
5 parole, certainly supportive. And a letter from  
6 Mr. Nunez, Sergio Nunez, who is the owner of --  
7 it's on stationery. Declaring the proper owner  
8 of Nunez Mechanic Shop offering you a job. Also  
9 acknowledge that you have auto body trade and is  
10 recently finishing his auto mechanics vocational  
11 trade. He's interested in employing you. Have  
12 you had any discussion as to how much he would  
13 pay you?

14           **INMATE CASTILLO:** No, sir.

15           **PRESIDING COMMISSIONER SAWYER:** Okay. I  
16 have another letter from him. Actual it's the  
17 same letter, retyped. Claudia Valdez or Valdiz.  
18 September 23rd, 2004, from New Mexico. And this  
19 is your sister?

20           **INMATE CASTILLO:** Yes, sir.

21           **PRESIDING COMMISSIONER SAWYER:** And it  
22 talks about the mistakes you made. Youngest  
23 sister. She owns a video store and diner. She  
24 has a job waiting for you.

25           **INMATE CASTILLO:** Yes, sir.

26           **PRESIDING COMMISSIONER SAWYER:** And her  
27 husband has opened a savings account. "We are

1 ready to take him shopping for clothes and  
2 anything else he would need." Signed by Claudia  
3 Valdez. You understand it's very difficult to  
4 be paroled to another state, and given the fact  
5 that you still have this INS detainer on you,  
6 that takes precedent over any other plans in the  
7 United States. Do you understand that?

8 **INMATE CASTILLO:** Yes, sir.

9 **PRESIDING COMMISSIONER SAWYER:** Okay.

10 And as I read earlier, we have a letter from  
11 Mexicali to us from Gerrardo (phonetical)  
12 Galardo, G-A-L-A-R-D-O, Pastor General of the  
13 Christian Community Church. He indicates in  
14 here that he would offer you a job in the  
15 ministry. Also help you locate to our city, and  
16 the city is Mexicali. They have a possible way  
17 of showing him around the city and part of our  
18 community. Okay. That's it. At this time I  
19 will turn it over to Commissioner Bentley.

20 **DEPUTY COMMISSIONER BENTLEY:** Thank you.

21 This is your initial hearing so we are going to  
22 go back to when you first came into the  
23 Department of Corrections and that was back in  
24 September of '83 at (indiscernible). And then  
25 in October of '83 you went to Folsom and you  
26 stayed there until October of '86 when you went  
27 to Tehachapi, and then you have been here at

1 Calipatria since August of '99. You've dug  
2 yourself a big hole in the start.

3 **INMATE CASTILLO:** Yes.

4 **DEPUTY COMMISSIONER BENTLEY:** Yeah,  
5 because your classification score is 93. If you  
6 hadn't have done that, you wouldn't have that  
7 classification score and you would probably be  
8 at a level two institution now.

9 **INMATE CASTILLO:** Yes, ma'am.

10 **DEPUTY COMMISSIONER BENTLEY:** Okay.  
11 You've had some really serious 115s. You got 16  
12 of them. And you know, like the district  
13 attorney said, you could have been charged on  
14 that assault and stabbing of another inmate.  
15 And received a second 25-to-year-life sentence.  
16 Did you realize that?

17 **INMATE CASTILLO:** No.

18 **DEPUTY COMMISSIONER BENTLEY:** Okay. What  
19 made you get into all this trouble?

20 **INMATE CASTILLO:** I would say the  
21 environment, but the choice was mine.

22 **DEPUTY COMMISSIONER BENTLEY:** Yeah, it  
23 has to be because we see a lot of inmates that  
24 come before us and they don't have any. And  
25 they have been to some of these same  
26 institutions because everybody when they first  
27 commenced is at a level four. Almost everybody.

1 And yeah, those are difficult situations, but  
2 they somehow managed to avoid this. You had a  
3 dangerous contraband and another assault on  
4 staff back in '86 and a fistfight. Then you had  
5 a (indiscernible) in '87. And when did you quit  
6 drinking?

7 **INMATE CASTILLO:** That was probably it.

8 **PRESIDING COMMISSIONER SAWYER:** Okay.

9 And then you had a razor and a sewing needle a  
10 couple of different razors. '87 again you had  
11 pruno. Your last one was in '87 and that again  
12 was another razor. What are you doing with all  
13 these razors? This was in Tehachapi.

14 **INMATE CASTILLO:** Yes. I was in the SHU  
15 where you learn about (indiscernible) to remove  
16 the razors from the whole thing that shaves you.

17 **DEPUTY COMMISSIONER BENTLEY:** Yeah.

18 **INMATE CASTILLO:** And I used to take them  
19 out of because I used to sew there in the  
20 prison. And I used to use sewing needles and  
21 (indiscernible).

22 **DEPUTY COMMISSIONER BENTLEY:** Okay. But  
23 seems to me after you picked up one 115, you  
24 would cut it out.

25 **INMATE CASTILLO:** Yes, (indiscernible).

26 **DEPUTY COMMISSIONER BENTLEY:** Yeah.

27 **INMATE CASTILLO:** But I didn't.

1           **DEPUTY COMMISSIONER BENTLEY:** Right.

2    Okay. And then you have four counseling  
3    chronos. And your last one of those was  
4    3/24/98. So this has really put you in -- you  
5    know, you just kind of wasted those first years.

6           **INMATE CASTILLO:** Yes, ma'am.

7           **DEPUTY COMMISSIONER BENTLEY:** Yeah. What  
8    made you stop getting disciplinaries? Because  
9    you said it was kind of the environment. But it  
10   was still the environment.

11          **INMATE CASTILLO:** What made me do the --

12          **DEPUTY COMMISSIONER BENTLEY:** Stop  
13   getting 115s?

14          **INMATE CASTILLO:** When I get sent to  
15   Tehachapi.

16          **DEPUTY COMMISSIONER BENTLEY:** You still  
17   got 115s at Tehachapi.

18          **INMATE CASTILLO:** Yeah. Towards the last  
19   year, they (indiscernible) and (indiscernible).

20          **DEPUTY COMMISSIONER BENTLEY:** Okay. Did  
21   you -- you got one at Tehachapi and  
22   (indiscernible).

23          **INMATE CASTILLO:** Yes. They were very  
24   strict in Tehachapi about any little thing they  
25   could find until the cell that wasn't --

26          **DEPUTY COMMISSIONER BENTLEY:** Like pruno.

27          **INMATE CASTILLO:** I got a write up in

1 Tehachapi for pruno?

2 **DEPUTY COMMISSIONER BENTLEY:** Two of  
3 them.

4 **INMATE CASTILLO:** I don't remember.

5 **DEPUTY COMMISSIONER BENTLEY:** One on  
6 August of '87 and then another one in October of  
7 '87. Again, you got the one and you didn't  
8 learn. Okay. But you have done some really  
9 good things and we will get into that. You were  
10 in the sewing at Tehachapi.

11 **INMATE CASTILLO:** Yes, ma'am.

12 **DEPUTY COMMISSIONER BENTLEY:** Okay. You  
13 were getting average to above average work  
14 reports. Then when you got down to Tehachapi,  
15 you were in the silkscreen.

16 **INMATE CASTILLO:** Yes.

17 **DEPUTY COMMISSIONER BENTLEY:** And you  
18 were the lead man and you were making flags for  
19 a number of years. Right?

20 **INMATE CASTILLO:** Yes.

21 **DEPUTY COMMISSIONER BENTLEY:** Were those  
22 California flags?

23 **INMATE CASTILLO:** Yes. Stars and stripes  
24 and California flags.

25 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
26 then what's done with those flags?

27 **INMATE CASTILLO:** Excuse me?

1           **DEPUTY COMMISSIONER BENTLEY:** What's done  
2 with the flags?

3           **INMATE CASTILLO:** They were sent to  
4 another prison to get the stripes sewn.

5           **DEPUTY COMMISSIONER BENTLEY:** So these  
6 would be like these flags?

7           **INMATE CASTILLO:** Yes. We used to sew  
8 the blue part --

9           **DEPUTY COMMISSIONER BENTLEY:** Oh, okay.

10          **INMATE CASTILLO:** -- to the stars.

11          **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
12 you were the lead man on many of your  
13 assignments in there.

14          **INMATE CASTILLO:** I was taken from the  
15 sewing site to the silkscreen site.

16          **DEPUTY COMMISSIONER BENTLEY:** Why? And  
17 you picked up social certificates at the same  
18 time --

19          **INMATE CASTILLO:** Yes.

20          **DEPUTY COMMISSIONER BENTLEY:** -- while  
21 you were in there.

22          **INMATE CASTILLO:** That also allowed me to  
23 take the course.

24          **ATTORNEY BUCHALTER:** It would allow me an  
25 hour every single day to allow me to take the  
26 things that I needed to get certificated.

27          **DEPUTY COMMISSIONER BENTLEY:** Okay. And

1 did you get certified?

2 **INMATE CASTILLO:** No. We were shipped  
3 out of there before I could complete the course.

4 **DEPUTY COMMISSIONER BENTLEY:** Okay. You  
5 came down here at Calipatria?

6 **INMATE CASTILLO:** Yes, ma'am.

7 **DEPUTY COMMISSIONER BENTLEY:** Okay. But  
8 you did pick up some skills because I saw a  
9 certificate. Okay. And then in 2000 your work  
10 assignment was the yard crew and then you became  
11 a clerk and then you got in the auto body  
12 vocation.

13 **INMATE CASTILLO:** Yes, ma'am.

14 **DEPUTY COMMISSIONER BENTLEY:** And in  
15 2002, you completed that.

16 **INMATE CASTILLO:** Yes, ma'am.

17 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
18 then you went back to being a clerk.

19 **INMATE CASTILLO:** Yes, ma'am.

20 **DEPUTY COMMISSIONER BENTLEY:** And you got  
21 an exceptional work report. And then you got  
22 into auto mechanics and I think you told Mr.  
23 Sawyer that you have completed that?

24 **INMATE CASTILLO:** No.

25 **DEPUTY COMMISSIONER BENTLEY:** Oh, I  
26 didn't see a completion.

27 **INMATE CASTILLO:** That was one of the

1 shut ups that was originally one of the  
2 upholstery and it shut down. And when I got in  
3 the class, we had to wait many months to have  
4 that stuff removed. As a matter of fact, me and  
5 a few other inmates cleaned up the shop and  
6 (indiscernible) for the auto body class.

7 **DEPUTY COMMISSIONER BENTLEY:** In that  
8 auto mechanic?

9 **INMATE CASTILLO:** Yes, it's auto  
10 mechanic.

11 **DEPUTY COMMISSIONER BENTLEY:** Oh, okay.  
12 So it's both.

13 **INMATE CASTILLO:** Well, they have a  
14 number one and then they have a number two where  
15 they do like (indiscernible) and tune ups and  
16 then they have the other shop where they do  
17 heavier stuff.

18 **DEPUTY COMMISSIONER BENTLEY:** Okay. In  
19 '96 you were out to court as a witness. What  
20 was that about?

21 **INMATE CASTILLO:** The district attorney  
22 called me and my codefendants back because they  
23 had arrested my brother on this case.

24 **DEPUTY COMMISSIONER BENTLEY:** Okay. Was  
25 he the fourth member?

26 **INMATE CASTILLO:** Yes, ma'am.

27 **DEPUTY COMMISSIONER BENTLEY:** Okay. And

1 did he get convicted?

2 INMATE CASTILLO: Yes, ma'am.

3 DEPUTY COMMISSIONER BENTLEY: Okay.

4 Well, that was a long time?

5 INMATE CASTILLO: Yeah.

6 DEPUTY COMMISSIONER BENTLEY: Okay. All  
7 right. In August of '91 you got your GED, but  
8 then there were some suspicions that there might  
9 have been some cheating going on then.

10 INMATE CASTILLO: There wasn't cheating  
11 going on.

12 DEPUTY COMMISSIONER BENTLEY: Oh, okay.  
13 You were cheating?

14 INMATE CASTILLO: No, ma'am.

15 DEPUTY COMMISSIONER BENTLEY: Okay. But  
16 some of the inmates were?

17 INMATE CASTILLO: Yeah.

18 DEPUTY COMMISSIONER BENTLEY: Okay. So  
19 you redid it in May of '02.

20 INMATE CASTILLO: Yes.

21 DEPUTY COMMISSIONER BENTLEY: So you've  
22 got a clean one now.

23 INMATE CASTILLO: Yes, ma'am.

24 DEPUTY COMMISSIONER BENTLEY: Right.  
25 Okay. And I didn't see any type of substance  
26 abuse programming and that's been recommended by  
27 the Board in the past.

1           **INMATE CASTILLO:** Well, I've never told  
2 that, but I've tried to get in those programs  
3 (indiscernible).

4           **DEPUTY COMMISSIONER BENTLEY:** Way back at  
5 your documentation hearing when you met with the  
6 Board and (indiscernible) suggesting that.

7           **INMATE CASTILLO:** They did?

8           **DEPUTY COMMISSIONER BENTLEY:** Yeah.

9           **INMATE CASTILLO:** I don't recall that.

10          **DEPUTY COMMISSIONER BENTLEY:** Okay.  
11 Well, anyone that's addicted to cocaine, as you  
12 are, claims the reason you were committing all  
13 those robberies was for your cocaine, obviously  
14 needs to get (indiscernible) slip back into that  
15 when he is released. Okay. And Mr. Sawyer went  
16 over with you your Straight Life --

17          **INMATE CASTILLO:** Yes, ma'am.

18          **DEPUTY COMMISSIONER BENTLEY:** -- Program.  
19 Okay. And I'm going to go over some of the  
20 other chronos that we have in here. And this is  
21 your degree as graduate of theology from the  
22 Gulf Coast Bible Institute.

23          **INMATE CASTILLO:** Yes, ma'am.

24          **DEPUTY COMMISSIONER BENTLEY:** Do they  
25 provide that for free?

26          **INMATE CASTILLO:** No, ma'am.

27          **DEPUTY COMMISSIONER BENTLEY:** You had to

1 pay for it?

2 **INMATE CASTILLO:** Yes, ma'am.

3 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
4 your graduate of theology, but that's not like a  
5 bachelor's degree, is it?

6 **INMATE CASTILLO:** I tried to take that,  
7 but this prison did not help.

8 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
9 then you have been in life skills development  
10 class?

11 **INMATE CASTILLO:** Yes, ma'am.

12 **DEPUTY COMMISSIONER BENTLEY:** Here at --  
13 and that does include some substance abuse,  
14 recovery, anger management, and you did the  
15 parenting.

16 **INMATE CASTILLO:** Yes, ma'am.

17 **DEPUTY COMMISSIONER BENTLEY:** And you did  
18 Life Without a Crutch, and that's substance  
19 abuse, isn't it?

20 **INMATE CASTILLO:** Yes.

21 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
22 then you did a completion of the AA, NA, 12-step  
23 process curriculum of the Life Skills Program.  
24 But you know if you're in that, do you continue  
25 to practice? Do you know the 12 steps?

26 **INMATE CASTILLO:** No, I don't know the 12  
27 steps, but I do continue to take training on

1 that.

2 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
3 you did social development and the anger  
4 management that we mentioned and the health. I  
5 guess you took all the courses that we have in  
6 it. Right?

7 **INMATE CASTILLO:** Right.

8 **DEPUTY COMMISSIONER BENTLEY:** And then we  
9 have a lot of certificates here that were your  
10 auto body.

11 **INMATE CASTILLO:** Yeah.

12 **DEPUTY COMMISSIONER BENTLEY:** And because  
13 you completed various facets of that and then  
14 you did a business management course and then  
15 that was part of the silkscreen. Right?

16 **INMATE CASTILLO:** Yes.

17 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
18 then you have a laudatory chrono here about your  
19 Straight Life Program and it indicates that this  
20 is court ordered and through in struggling the  
21 youth, the inmate said Straight Life was to  
22 educate them, so when they are confronted with  
23 having to commit on illegal act or something  
24 against a moral (indiscernible) they make the  
25 right choice. And these are more chronos here  
26 and your Straight Life and then here you are to  
27 be commended by Correctional Counselor Sarala

1 (phonetical) for your positive behavior and  
2 you're courteous, respectful, and cooperative  
3 with both staff and inmates and said it's highly  
4 appreciated and then we have Jane McCurry  
5 (phonetical), the Life Skills Development  
6 teacher who indicates you have completed  
7 personalized self-help study, self-study life  
8 skills development, and all the various facets  
9 of it. And says, "He's been working on your own  
10 volition, beyond your regular job assignment.  
11 You demonstrate knowledge of the material by  
12 doing excellent on tests and homework  
13 assignments." And then here's some more in  
14 Straight Life and he's one from Edwina  
15 Vancecoder (phonetical), the vocational  
16 education officer, and she says she commends you  
17 for your attitude and performance, and that's  
18 when you were a clerk there. And then here's  
19 some more straight life. And you're still  
20 involved with that; is that correct?

21 **INMATE CASTILLO:** Yes, ma'am.

22 **DEPUTY COMMISSIONER BENTLEY:** Okay. And  
23 so you keep yourself pretty busy. Anything that  
24 I've over looked?

25 **INMATE CASTILLO:** No, ma'am.

26 **DEPUTY COMMISSIONER BENTLEY:** Do you  
27 think I've covered everything that I have been

1 doing?

2 **INMATE CASTILLO:** Yes, ma'am.

3 **DEPUTY COMMISSIONER BENTLEY:** Okay.

4 Well, 2you've really made a big change since  
5 '87. That's really when you started serving  
6 your time. Wouldn't you say?

7 **INMATE CASTILLO:** Well, I mean every day  
8 here is hard on a person.

9 **DEPUTY COMMISSIONER BENTLEY:** Yeah.

10 **INMATE CASTILLO:** Everybody has to  
11 (indiscernible) new life.

12 **DEPUTY COMMISSIONER BENTLEY:** But you  
13 know when you do that, it adds to the time  
14 you're going to stay in prison.

15 **INMATE CASTILLO:** Yes.

16 **DEPUTY COMMISSIONER BENTLEY:** Because  
17 when we find you suitable for parole, we then  
18 determine the length of your sentence.  
19 (Indiscernible) off these years if you didn't  
20 get into trouble and do programs so you missed  
21 out on some.

22 **INMATE CASTILLO:** Yes, ma'am.

23 **DEPUTY COMMISSIONER BENTLEY:** Yeah. But  
24 you have got a good and clean time with you. We  
25 just had a similar initial hearing yesterday  
26 with an inmate, and he didn't wake up  
27 unfortunately until '99. And he's still up at

1 210 classification. Yeah. So at least you saw  
2 you better change sooner.

3 **INMATE CASTILLO:** I do regret  
4 (indiscernible).

5 **DEPUTY COMMISSIONER BENTLEY:** Yeah.

6 **INMATE CASTILLO:** You know, jobs and  
7 (indiscernible).

8 **DEPUTY COMMISSIONER BENTLEY:** Yeah.

9 **INMATE CASTILLO:** So, you know, I do now,  
10 especially now, for my (indiscernible) like  
11 that. If I had based myself, I could be in  
12 level three right now where I could take  
13 advantage of more programs that they have.  
14 Because every prison is (indiscernible) programs  
15 that they have.

16 **DEPUTY COMMISSIONER BENTLEY:** Right.  
17 Well, you are bringing them down. It's going to  
18 be a little bit longer. Okay. And then I'm  
19 going to go to the psychological report that was  
20 done for this hearing. And this is done by Dr.  
21 Magner. Goes over your history and all the  
22 stuff that we have already been talking about,  
23 your substance abuse and your parole plans, and  
24 it says under diagnosis you've got a cocaine  
25 dependence that he claims is in remission and he  
26 says that under Axis V you've maintained a good  
27 level of adjustment in a controlled setting.

1 And he goes over with you in the review of the  
2 life crime, says that you have demonstrated good  
3 disciplinary history for the past 17 years.  
4 There are two violent offenses noted, one in '85  
5 and one in '87. Describing the stabbing in '85,  
6 the inmate notes that "they wanted me to hurt  
7 this guy." Inmate relates that he made the  
8 attempt but does not know how badly he actually  
9 hurt him. And then you were involved in a  
10 fistfight in '87, but the doctor missed that  
11 there was another assault on an inmate back in  
12 '86, and he says:

13 "Because of the history and that  
14 you have been disciplinary free  
15 for an extended period of time,  
16 that your potential for violence  
17 would be somewhat less than the  
18 average level four inmate.  
19 (Indiscernible) if released into  
20 the free community it is felt  
21 that your potential for violence  
22 would be about average for a 43-  
23 year-old male. Certainly  
24 precursors to that would be  
25 relapse into substance abuse.  
26 Another potential factor would  
27 be loss of family support.

1 Release plans are feasible.  
2 Your family support is very  
3 strong. Subsequent prognosis  
4 for successful community living  
5 would be considered good,  
6 providing that you remain  
7 substance free and continue to  
8 have family support."

9 And he recommends that you got involved in AA or  
10 NA. Says you are on the waiting list?

11 **INMATE CASTILLO:** Yes.

12 **DEPUTY COMMISSIONER BENTLEY:** And there's  
13 no need for mental health services. So overall  
14 it was a pretty positive report. So with that I  
15 will return to the Chair.

16 **PRESIDING COMMISSIONER SAWYER:** Thank  
17 you. Ms. Buchalter, do you have any questions  
18 of the inmate?

19 **ATTORNEY BUCHALTER:** Is the Board going  
20 to ask anymore questions or are you --

21 **DEPUTY COMMISSIONER BENTLEY:** I had a  
22 question.

23 **PRESIDING COMMISSIONER SAWYER:** I'm  
24 sorry.

25 **DEPUTY COMMISSIONER BENTLEY:** That's all  
26 right.

27 **PRESIDING COMMISSIONER SAWYER:** You gave

1 it back to me and then --

2 **DEPUTY COMMISSIONER BENTLEY:** I wanted to  
3 be kind of quick because I was going to get back  
4 into the -- it's just a little brief question.  
5 I noticed in the probation officer's report you  
6 said you expected to only get a two-year term  
7 for all these crimes.

8 **INMATE CASTILLO:** I don't understand.

9 **DEPUTY COMMISSIONER BENTLEY:** This is a  
10 quote. When the probation officer interviewed  
11 you in the -- before you were sentenced and you  
12 said you didn't want to talk to him because you  
13 were all confused because you said, I was told I  
14 would only have to serve two years.

15 **INMATE CASTILLO:** I don't recall that.

16 **DEPUTY COMMISSIONER BENTLEY:** Okay. All  
17 right. Okay. That's it.

18 **PRESIDING COMMISSIONER SAWYER:** Okay. Do  
19 you have any questions?

20 **ATTORNEY BUCHALTER:** I do.

21 **PRESIDING COMMISSIONER SAWYER:** Okay.

22 **ATTORNEY BUCHALTER:** I would like to  
23 comment on the probation officer's report. I  
24 used to be in court a lot with cases and the  
25 probation officer's report are often not  
26 accurate. So that's a possible misstatement  
27 because he has no recollection of that. I do

1 have questions. You also have a graduate degree  
2 of theology from the Gulf Coast Bible Institute.  
3 Correct?

4 **INMATE CASTILLO:** Yes.

5 **ATTORNEY BUCHALTER:** And you studied for  
6 that for a few years?

7 **INMATE CASTILLO:** Yes, ma'am.

8 **ATTORNEY BUCHALTER:** Yes? And you have  
9 taken 12-step programs and you study on your  
10 own. Correct?

11 **INMATE CASTILLO:** Yes, ma'am.

12 **ATTORNEY BUCHALTER:** Correct? 12 steps.  
13 Has anyone ever mentioned to you that -- this is  
14 a rhetorical question -- 12 steps you must know  
15 them in order to be released? Has anyone ever  
16 told you that?

17 **INMATE CASTILLO:** No, ma'am.

18 **ATTORNEY BUCHALTER:** You also have taken  
19 substance abuse recovery?

20 **INMATE CASTILLO:** Yes, ma'am.

21 **ATTORNEY BUCHALTER:** Right? And as far  
22 as the charitable work that you do, I notice  
23 that in the news article that talked about you  
24 and some other companions of yours here gave  
25 financial scholarships to some of the youth.

26 **INMATE CASTILLO:** Yes, ma'am.

27 **ATTORNEY BUCHALTER:** Was that funds that

1 you had raised?

2 **INMATE CASTILLO:** Yes, ma'am.

3 **ATTORNEY BUCHALTER:** So you're interested  
4 in charitable work?

5 **INMATE CASTILLO:** Yes, ma'am.

6 **ATTORNEY BUCHALTER:** And a part of your  
7 giving back --

8 **INMATE CASTILLO:** Yes, ma'am.

9 **ATTORNEY BUCHALTER:** -- to what you took  
10 away. The cocaine. Was that a heavy addiction  
11 or was that an experimental episode in your  
12 life? Which was it? The cocaine?

13 **INMATE CASTILLO:** The cocaine was  
14 experimental, but I did it.

15 **ATTORNEY BUCHALTER:** And you took it for  
16 how much of your life, do you think?

17 **INMATE CASTILLO:** To the best I can  
18 remember, it was only a few months.

19 **ATTORNEY BUCHALTER:** A few months?

20 **INMATE CASTILLO:** It was only few months,  
21 yeah.

22 **ATTORNEY BUCHALTER:** And you experimented  
23 with it during that two months?

24 **INMATE CASTILLO:** Yes.

25 **ATTORNEY BUCHALTER:** You snorted it?

26 **INMATE CASTILLO:** Yeah. I did inject it  
27 though --

1           **ATTORNEY BUCHALTER:** A couple of times  
2 you testified to. Correct?

3           **INMATE CASTILLO:** Yes.

4           **ATTORNEY BUCHALTER:** And you didn't like  
5 alcohol, did you?

6           **INMATE CASTILLO:** No, ma'am.

7           **ATTORNEY BUCHALTER:** Although you had  
8 pruno, 115, twice for pruno.

9           **INMATE CASTILLO:** Yeah. I used to make  
10 it for --

11          **ATTORNEY BUCHALTER:** For others?

12          **INMATE CASTILLO:** For others, yes, ma'am.

13          **ATTORNEY BUCHALTER:** All right. But you  
14 told me and tell the Commissioners if you can  
15 that you did not like alcohol and --

16          **INMATE CASTILLO:** No, ma'am. I had a bad  
17 accident in Folsom in 1983 with alcohol. I  
18 almost lost my eyesight to drinking and I never  
19 touched it again. I did make it.

20          **ATTORNEY BUCHALTER:** That's why you got  
21 the pruno write-ups?

22          **INMATE CASTILLO:** Yes, ma'am.

23          **ATTORNEY BUCHALTER:** All right. But you  
24 do study the 12 steps on your own. Correct?

25          **INMATE CASTILLO:** Yes, ma'am.

26          **ATTORNEY BUCHALTER:** And you have taken  
27 substance abuse recovery?

1           **INMATE CASTILLO:** Yes, ma'am.

2           **ATTORNEY BUCHALTER:** And you do discuss  
3 these things with the youngsters who come to  
4 prison in order to help divert them to the right  
5 path.

6           **INMATE CASTILLO:** Yes.

7           **ATTORNEY BUCHALTER:** And you are on the  
8 waiting list to get in.

9           **INMATE CASTILLO:** Yes.

10          **ATTORNEY BUCHALTER:** I think that's all I  
11 have, Commissioner.

12          **PRESIDING COMMISSIONER SAWYER:** Okay.

13 Thank you. Would you like to close?

14          **ATTORNEY BUCHALTER:** I would. Thank you.  
15 There's a lot I want to talk about today on  
16 behalf of Mr. Castillo. First of all, President  
17 Bush early this year publicly stated that we are  
18 a nation of second chances and that is why we  
19 have a parole system. Governor Schwarzenegger  
20 also stated publicly that he is joining our  
21 political leaders by insisting his word that  
22 California make rehabilitation a focus of prison  
23 life. This new focus and importance is made  
24 clear by the change of the name of our penal  
25 system to include the word "rehabilitation."  
26 The punishment aspect of incarceration that  
27 society demands is met when the minimum eligible

1 parole date occurs. That amount of time is the  
2 punishment to society through its court's  
3 demands and in this, that extraction of  
4 incarceration time ends next month. This  
5 expectation of going home on parole when  
6 rehabilitated pursuant to a court sentence is  
7 now the focus and will help the taxpayers reduce  
8 the huge financial burden that they have to keep  
9 rehabilitated persons locked up. My remarks  
10 will be directed to the information that  
11 evidences Mr. Castillo's complete  
12 rehabilitation. This is an initial hearing.  
13 And it is not a practice hearing. It's not a  
14 trial run for release into a future release. It  
15 is an actual hearing with all the same weight  
16 and evidence and importance that we bring to any  
17 hearing, any subsequent hearing. It's the same  
18 weight that should be given. If he's suitable  
19 he should be given a grant of parole on his  
20 initial hearing. The district attorney's letter  
21 opposes the parole and obviously a great deal of  
22 his letter, most of his letter talked about the  
23 facts of the offense. And he also disagreed  
24 with the current psych report which had a  
25 favorable summation for my client, but he says  
26 that you should be using one that's more  
27 unfavorable but dated back 13 years ago. So I'm

1 going to ask you to keep that in the proper  
2 context. His assessment was that clearly the  
3 inmate is a vicious, dangerous, and determined  
4 criminal. He used the word "is." I would like  
5 to change that to the word "was." Who he is  
6 today is not that person as described by the  
7 district attorney. His opposition in and of  
8 itself does not make Mr. Castillo an  
9 unreasonable risk of harm to others. It's just  
10 in opposition to his parole. And so he also  
11 talked about that they believe the inmate's  
12 appropriate time to serve is his entire life. I  
13 used the word "entire," but he felt that he was  
14 given a life sentence and that's what he should  
15 serve. The district attorney has asked you  
16 then, therefore, to please change his court-  
17 mandated sentence of life with possibility of  
18 parole to one without the possibility of parole,  
19 and I believe that that kind of a statement is  
20 asking you to do something that was not  
21 expected, and so I would ask you to ignore that  
22 because that would convert his life sentence.  
23 So I believe that query or that request of you  
24 is unusual and certainly unfortunate. As far as  
25 his priors go, we talked about the juvenile  
26 history that he had. There was a open beer  
27 container, for one thing. But his

1 rehabilitation that we are here about today is  
2 not just from the life offense itself. It's  
3 also from all that went prior to the life  
4 offense and I will get into that in a moment.  
5 But even through all his juvenile history he hit  
6 a bumpy road after certainly a very wonderful  
7 upbringing with a large, loving living family.  
8 Obviously, and he got into big trouble, and I  
9 want to talk about the rehabilitation of not  
10 just from the life offense but all that went  
11 before it. The vocational education that he's  
12 had has been tremendous. The auto body and  
13 fender skills that he has, he's done a great  
14 deal of that. He's also done business  
15 management, basic camera operations, process ink  
16 and color mixing, art, and copy preparation,  
17 press, printing, hand printing. Therefore, he  
18 also has silk screening capability which is a  
19 marketable skill, also along with his auto body  
20 and fender mechanical skills. He's educated in  
21 terms of getting his GED in prison, which he had  
22 abandoned his high school on the outside and  
23 thus we're here today. The support summary  
24 is -- these offers he has in Mexicali, he's  
25 prepared to return there. He's got two  
26 residences offered and three job offers there.  
27 He can live with his father. They own property

1 there, I believe. These offers of financial  
2 support from the victim's family members,  
3 whether he lives in Mexicali or California,  
4 Theresa, Christina, and Claudia have all offered  
5 all financial assistance for him in terms of his  
6 transition. He's also in California, he's also  
7 got parole plans, three residences, a job offer.  
8 He's got the marketable skills that he can take  
9 here or there. And the victim's family is very  
10 supportive of him. The victim's family, the one  
11 who's dead, this family is here because they are  
12 also the family of my client. The father of the  
13 victim is supportive of his release. The son of  
14 the victim wants him to come home. Three  
15 sisters, one brother, a niece, and a nephew all  
16 have asked you to release him back into the  
17 community. The counselor writes also that his  
18 parole plans are supported by the letters of  
19 support. So I would ask that you do, in fact,  
20 and also there's being an savings account set up  
21 for him, plus he had \$200 of his own that he has  
22 talked about, so I would ask that his parole  
23 plans be given absolutely a plus. I suggest  
24 there is no issue with his parole plan, either  
25 in Mexico or in the United States, because even  
26 if the residence of a county is not available to  
27 him for some reason, I didn't notice that, they

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1 are providing all financial assistance that he  
2 needs to transist wherever the parole department  
3 would decide to send him. As far as the help  
4 self-help and therapy, he's now a very deeply  
5 religious person as he's articulated to you  
6 today. He's got the graduate degree of theology  
7 and hopes to become a minister, I suppose, on  
8 Sundays. Whenever he's out and available to do  
9 that, he wants to do that. He wants to continue  
10 in his work assisting others. You've already  
11 articulated, I won't repeat the self-help  
12 programs that he's done. He's done 12 steps.  
13 He's done substance abuse. Obviously AA and NA  
14 are faith-based programs, and I don't believe  
15 that government is allowed --

16 **DEPUTY COMMISSIONER BENTLEY:** Okay. This  
17 is tape number two in the initial parole  
18 consideration hearing for Luis Castillo, CDC No.  
19 C-73437.

20 **ATTORNEY BUCHALTER:** Regarding substance  
21 abuse and regarding taking care of that issue  
22 and that problem, if it were a problem, NA and  
23 AA are faith-based programs, and I don't believe  
24 the government is allowed to order anyone into  
25 these kinds of programs that have a faith-based  
26 ideology. As a matter of fact, be that as it  
27 may, he does work on the 12 steps by himself,

1 knowing the 12 steps. He said I don't really  
2 know them, but obviously he practices them  
3 because he is a sober person. And it's not a  
4 requirement for his release that he must be able  
5 to quote to this Panel any of the 12 steps.  
6 That's not a requirement. He's had a substance  
7 abuse recovery and you've already articulated  
8 into the record some of the other programs that  
9 he's had that also deal with substance abuse.  
10 And his substance abuse is not as severe as some  
11 that I've seen, of course. He does experiment  
12 with cocaine on the outside, and alcohol was  
13 just not his choice of intoxicant at that time  
14 or now, certainly. He has no choice of  
15 substance now. Charitable work, he's already  
16 described that he wants now to devote his life  
17 to giving back by helping his father, for  
18 example, giving back to his family, and giving  
19 back to society for so much that he took away.  
20 He took away a great deal from his family and  
21 from society and certainly terrified a whole lot  
22 of people. There's no question about that.  
23 He's rehabilitated from that. That's a static  
24 factor, Commissioners. That will never change.  
25 So I believe that his substance abuse recovery  
26 is sufficient because he's spent 18 years free  
27 from any kind of pruno. He also talks about the

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1 pruno he was making for somebody else and not  
2 himself. So his substance abuse, if there was  
3 an addiction of any sort or if he was on the  
4 road to an addiction, it's over. It's gone. As  
5 far as the 128s, they are prohibited by law to  
6 be used as unsuitability factors. According to  
7 the in re Smith case, they are insufficient to  
8 rise to a level to say that he's unsuitable for  
9 parole and therefore an unreasonable risk of  
10 harm and should be kept in longer for  
11 observation and treatment. The 115s that he has  
12 had were severe and it was a bumpy start.  
13 There's no question about it. And it was very  
14 well examined today in this hearing, but that  
15 was 18 years ago. He did have a lot of 115s.  
16 He's turned his life around in that, so, yes,  
17 perhaps his, the last one was 18 years ago, so  
18 for 18 years ago he did turn his life around  
19 and, yes, those 115s can be added onto his  
20 sentence when the matrix is done, but his  
21 suitability factors is what we're looking at  
22 here today, because all the years he's had can  
23 also be deducted for months I believe, of every  
24 year that he's been free so there is a  
25 calculation to be done that would change that  
26 next week. But his assault is what we're about  
27 here about, so 18 years of being free from the

1 115s that he had certainly speaks volumes about  
2 who he is today. We certainly know who he was  
3 yesterday. We're now talking about who he is  
4 today. So it's too far back to be used as an  
5 unsuitability. 18 years is a long time. So  
6 what it's going to be used again, what is the  
7 arbitrary number then that he should be  
8 continued to be observed? 20 years good enough?  
9 Or is it 40 years? Is it a lifetime, as the  
10 district attorney would have you do? Or is 18  
11 years sufficient to say obviously he's taken  
12 care of this particular problem and he's not  
13 going to do anymore 115s. I think he's  
14 exhibited that here today before you in not only  
15 his performance, his lack of disciplinaries for  
16 18 years, but the things he said and the way  
17 he's answered and his commitment to who he is,  
18 commitment to being sober, commitment to helping  
19 others, commitment to try to be a good family  
20 person. So I would ask you to not keep him in  
21 for a lengthy stay and observation for a 115s  
22 that happened 18 years ago. Obviously he wasn't  
23 eligible or he wasn't eligible nor suitable 18  
24 years ago. But today he's a different story.  
25 The life offense itself, he's spent over 22  
26 years now, 23 years or so incarcerated. He  
27 certainly paid his debt to society for what

1 happened. It was a felony murder. He wasn't  
2 the one who did the killing. He's not a killer  
3 per se, and I would also like to talk about the  
4 fact that -- well, he didn't kill someone and  
5 the victim, of course, the older brother, was  
6 equally culpable in this tragic case because the  
7 two of them were doing the same crime at the  
8 same time. They were committing robberies that  
9 credited this death of an unfortunate young  
10 person. He was young. He was age 19 at the  
11 time and therefore this maturation of course is  
12 a factor of suitability that should be  
13 considered in giving great weight. The plea  
14 bargain that I read was certainly not a plea  
15 bargain. My client took full responsibility.  
16 He admitted to absolutely everything, in the  
17 most extreme. That the district attorney put  
18 down, yes, I did this. Yes, I did that. It's a  
19 long and lengthy history. So that plea bargain  
20 was not a plea bargain. What it was my client  
21 taking responsibility for absolutely everything  
22 the district attorney said this is what you did.  
23 And he said, yes, I admit and I accept  
24 responsibility and I will pay my price and he  
25 has paid that price. The psychological report,  
26 which is important because we pay these mental  
27 evaluators a lot of money to assess these

1 people. They are qualified physicians. In  
2 terms of psychologists and psychiatrics, they  
3 bring to you a guide, an assessment of them,  
4 which I think should be given great weight.  
5 Certainly a current report should be given more  
6 weight than a 1992 assessment which doesn't have  
7 the benefit of these 13 years of behavior and  
8 change of mind or heart or attitude that my  
9 client has, so this is the important report. As  
10 Dr. Wagner, M-A-G-N-E-R, has written that his  
11 violence potential for violence would be about  
12 average for a 43-year-old man if no relapse into  
13 substance abuse and keeps family support.  
14 Obviously he's going to keep his family support,  
15 and it's obvious that he won't be engaging in  
16 substance abuse. The doctor continues to state  
17 that quote, "His prognosis for successful  
18 community living would be considered good with  
19 abstinence and continual family support that he  
20 has." That answers the question, does he pose  
21 an unreasonable risk of harm to others? The  
22 professional mental health evaluator has said  
23 no, he's not an unreasonable risk of harm so  
24 it's a pro-parole release report and assessment  
25 for him. So even in 1992 though, the doctor  
26 talked about his maturation and that his impulse  
27 control was significantly better than the

1 average for this population also. Also, doctor  
2 Magner this year acknowledges that Mr. Castillo  
3 demonstrates empathy and remorse. Empathy of  
4 course means he can put himself into the shoes  
5 of the victims and understand what they felt and  
6 the pain and fear and fright of those who  
7 survived, who weren't harmed. So that of course  
8 means my client has made a tremendous  
9 transformation in his character, and I have  
10 spoken before that he has taken full  
11 responsibility for everything that he has done  
12 in the past. The denial is not deserved today,  
13 especially a multi-year denial. It's just not  
14 justified because there is no evidence of  
15 unsuitability because the crimes that brought  
16 him here today and the crimes before it are  
17 static and can never be changed. I also want to  
18 just close with this. I happen to have the Los  
19 Angeles District Attorney Lifer Hearing manual  
20 portion regarding victims' statements. And it  
21 does state, quote, "The victim's immediate  
22 family have the right to appear and so express  
23 their abuse concerning crime and the person  
24 responsible." This manual, a training manual,  
25 further states in urging appearances from  
26 victims, quote, "Consideration should be given  
27 to having the victim or a member of the victim's

1 family at a murder case present at the hearing.  
2 Such testimony at a hearing is extremely  
3 influential on the Board members to convince  
4 them to render a finding of unsuitability," end  
5 quote. Since in this case the family members  
6 are here to urge the Board to render the  
7 opposite finding, meaning a grant of parole,  
8 then should not the same be true? In other  
9 words, shouldn't the victim's next of kin  
10 support for release statement be also, quote,  
11 "extremely influential on the Board," end quote,  
12 to grant parole. I request that this be the  
13 case with the statements of the father and the  
14 sister of the victim, that their positive  
15 statements be given the same extremely  
16 influential weight as any negative statements  
17 would have done, according to the district  
18 attorney and according to my personal experience  
19 with hearings such as this one. It would be in  
20 my opinion unethical to give great weight to  
21 opposition from victim's next of kin, our  
22 victim, and not the same to victim's next of kin  
23 who are very supportive of his release. They  
24 would like to have him home. I can't see  
25 anything that would tell you that he's an  
26 unreasonable risk of harm or a danger to society  
27 in any context whatsoever. I would submit,

1 Commissioners, and you for a grant of parole  
2 today.

3 **PRESIDING COMMISSIONER SAWYER:** Thank  
4 you. Mr. Castillo, this is your opportunity to  
5 tell us why you feel you are suitable for parole  
6 at this time.

7 **INMATE CASTILLO:** Like I said it before,  
8 back when this happened, I was a selfish person.  
9 I only thought about myself, about all the drugs  
10 that I experimented with and stuff and getting  
11 money, and I realized that there are a lot of  
12 people that I hurt and how much my sister-in-law  
13 misses her husband and my nephew misses his  
14 father. I can be here today. He can't. It was  
15 wrong. (Indiscernible) money and jewelry. Ever  
16 since I came into the (indiscernible) reading  
17 the bible has taught me that you've got to be  
18 true to (indiscernible) and heart. True  
19 repentancy is in your heart because if it isn't  
20 found in (indiscernible) the heart, you will go  
21 back to doing the same thing. And I admit that  
22 (indiscernible) Christian life, take that  
23 (indiscernible) in my heart. And I'm not guilty  
24 going to let my brother's death (indiscernible)  
25 another death. It meant something to me. It  
26 was my brother. And I'm going to do it for the  
27 Lord and I'm going to do it for him. I won't

1 fall back into the same life of crime. I told  
2 my sisters many times that I just want another  
3 chance to be out there with my father and take  
4 care of him, my daughter and my grand kids and  
5 give back to the community, to speak on the  
6 things that other people kind of sweep under the  
7 rug. I seen people that go wrong, we can beat  
8 it. Say hey, you know, you got help. We can  
9 speak to (indiscernible) past in Mexicali. I  
10 would like to go back to Mexicali to help you  
11 out on the weekends. Take a job that this man  
12 is offering me in Mexicali and fix cars. And no  
13 matter what he pays me, it's okay to me because  
14 I work in here for pennies. And here I really  
15 learned the value of the things I took from  
16 people and they work so hard for these things  
17 and here I came along and took them. Came along  
18 and -- I don't know how I ever did things like  
19 that. I just pray that you guys will have mercy  
20 and (indiscernible) and I pray that, you know, ..  
21 the victims that I took things from, that the  
22 officers that I (indiscernible) them to drink or  
23 do drugs have killed somebody. That the people  
24 that were there that night, they (indiscernible)  
25 drinking because (indiscernible) that. Because  
26 I know all that, they were hurt by my actions.  
27 And like I said, I do take full responsibility

1 for what happened that night. And I would like  
2 to be (indiscernible) investigating officers  
3 that interviewed me, tell them what happened. I  
4 just want to get this sentence and get on with  
5 my sentence. Come in prison and do what I do.  
6 (Indiscernible) said, you know, why did you get  
7 in these things? I have no answer to it. I can  
8 say now that the bible's (indiscernible)  
9 character and selfish and (indiscernible).

10 **PRESIDING COMMISSIONER SAWYER:** Okay.  
11 Thank you. This is your opportunity to speak.  
12 And who will be going first? And I would like  
13 you to identify yourself and your relationship  
14 for the tape. Are you going first?

15 **MS. BARRETT:** My name is Christina  
16 Barrett, and I'm the sister of Luis Castillo and  
17 also the sister of Frank Castillo. And  
18 (indiscernible) paper.

19 **PRESIDING COMMISSIONER SAWYER:** Okay.  
20 Take a deep breath.

21 **MS. BARRETT:** Okay. In the event that  
22 (indiscernible) loved one Luis in prison and  
23 that our loved one, Frank, dead, has devastated  
24 our entire family. Our parents have lost two  
25 sons and we want Luis back. He has served many  
26 years in prison and has paid a heavy price for  
27 what happened. The policeman in his line of

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1 duty shot and killed my brother Frank. Luis  
2 took immediate responsibility and pled guilty to  
3 his death and many other charges. He could have  
4 a trial but he was (indiscernible) for  
5 everything that happened. Luis is not a danger  
6 to society in any way, and our family will be  
7 there for him in every way possible, and we need  
8 him home with us. Hasn't he been punished  
9 enough for his long years in prison? Our family  
10 has been impacted (indiscernible) and took Luis  
11 in prison now that he is not a danger to  
12 society. Further punish not only Luis but all  
13 of us as well. We can't bring Frank back to our  
14 family. (Indiscernible) to have Luis back.  
15 Please listen to what Luis and his attorney have  
16 said and his excellent record that shows that he  
17 will never commit harm again, and send him home  
18 to us. We love him dearly. The past can never  
19 be taken back to our future as the victim's next  
20 of kin can have burden (indiscernible) by giving  
21 Luis a parole date to come home. Our father  
22 especially (indiscernible) and he has  
23 (indiscernible) remaining years. I don't know  
24 if you can find that Luis is still a danger to  
25 anyone. If you do this, the impact on our  
26 family will be to continue a great and  
27 (indiscernible). Please give Luis a chance of

1 parole so our family will be complete together.  
2 And also on behalf of his daughter who  
3 (indiscernible) pleads to give his dad back to  
4 him so he can know her father, and so her  
5 children could also know their grandfather. And  
6 we are all willing to help with money and  
7 anything he needs. We will be there for him,  
8 because we are a close family. And we will be  
9 praying together that he did his time. It's  
10 time for him to come home. Thank you.

11 **PRESIDING COMMISSIONER SAWYER:** Thank  
12 you. Mr. Castillo? Stand.

13 **MR. CASTILLO THROUGH THE INTERPRETER:**  
14 (Indiscernible) for my son. I wish that we were  
15 (indiscernible). For all the years  
16 (indiscernible). I've lost two sons. One that  
17 died and the one that's in prison. We wish for  
18 his freedom. If the last few years I have, I  
19 would like to spend with him. (Indiscernible)  
20 have him. Because all the years he's been in  
21 prison, I've seen in him new changes. And I  
22 will take care of him. I live alone and I wish  
23 to live with him in these last few years I have  
24 left.

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1 night, go to the grocery store, go to Ralph's,  
2 go to the drugstore to buy medication -- you  
3 have to peek inside to see if it wasn't being  
4 robbed -- go to the restaurant or the bar and  
5 have dinner, having to look behind you all the  
6 time to make sure that nobody's -- these guys  
7 aren't coming out with guns. I mean, it must  
8 have been a terrible time for a lot of people.  
9 Not just the victims, not just the immediate  
10 victims that saw the barrels of those guns and  
11 heard the order for their money and their  
12 property, and in fear of their life. The  
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13 policemen who risked their lives, chasing you  
14 and your crime partners with bullets. You just  
15 never know. Bullets don't have any conscience  
16 and they go wherever they are pointed and then  
17 sometimes they deflect and they go places they  
18 are not pointed. It's amazing that many people  
19 didn't get hurt in this. Unfortunately, you  
20 lost your brother and he was certainly culpable  
21 for part of this. There's no question about it.  
22 He was your crime partner, but you had, as I  
23 read in the aggravating factors, you could have  
24 ceased at any time. You could have called the  
25 police on him, you know. There's a lot of  
26 things that -- and hindsight is wonderful, isn't  
27 **LUIS CASTILLO C-73437 DECISION PAGE 2 11/17/05**

1 it? But on January 10th, 1982, and this is the  
2 commitment factor, the one at Rusty's Hacienda  
3 Restaurant, it just went -- it just got out of  
4 control real quick. You did, sir, minimize the  
5 fact initially. And I want to make it clear. I  
6 hope it cleared it up when you said you weren't  
7 trying to hurt any of the policemen, but then I  
8 pointed to you, sir, you kicked a policeman when  
9 he was on the floor with a shotgun in his back.  
10 That's hurting somebody. Okay. And you tried  
11 to minimize the fact that you were just shooting  
12 in the air. But then I remembered there was a  
13 helicopter at the scene as well. And then  
14 shooting at a helicopter, sir, can kill and hurt  
15 lots of people. That's a very dangerous thing  
16 to do. Quite frankly, my fellow Commissioner  
17 and I feel you are very lucky to be here today  
18 for a lot of reasons, sir. To even have the  
19 opportunity to have a hearing because of crimes  
20 that you have committed. Well, and on the  
21 street and in prison, the crimes were calculated  
22 and dispassionate. It was exceptional callous  
23 disregard for human suffering. Sometimes we  
24 have a tendency to overuse those words, those  
25 legal terms, but in this -- it fits this crime  
26 to a T. It was calculated. You went up on  
27 **LUIS CASTILLO C-73437 DECISION PAGE 3 11/17/05**

1 didn't go blind when you drank that pruno. I  
2 can understand how a bad experience like that  
3 would wake you up. But there's two areas in  
4 your self-help programs that you are -- that you  
5 are to be commended for. One is the 2/6 of '04,  
6 the Gulf Coast Bible degree of graduate  
7 theology. Does that make you a minister?

8 **INMATE CASTILLO:** Yeah, I do minister on  
9 the yard.

10 **PRESIDING COMMISSIONER SAWYER:** Okay. I  
11 mean officially. Does that give you -- can you  
12 start your own church?

13 **INMATE CASTILLO:** Yes.

14 **PRESIDING COMMISSIONER SAWYER:** And get a  
15 nonprofit status?

16 **INMATE CASTILLO:** Yes.

17 **PRESIDING COMMISSIONER SAWYER:** Okay. I  
18 wasn't familiar with the South (sic) Coast Bible  
19 degree. And the other is your Straight Life  
20 Youth Diversion Program as a volunteer and you  
21 and your guys -- there he goes again,  
22 Commissioner. He's got twice the smile. Got  
23 twice the smile with his eyes sparkling. You  
24 obviously enjoy that and when you enjoy  
25 something, it makes -- it makes your life good  
26 and their life good. It's a win-win, isn't it?

27 **LUIS CASTILLO C-73437 DECISION PAGE 7 11/17/05**

1 And we hope that you can salvage some of these  
2 kids to keep them from replacing you when you  
3 leave here. Your psychiatric report, and it's a  
4 very fresh psychiatric report, and I'm going to  
5 read the assessment of dangerousness. Inmate  
6 has demonstrated a good disciplinary history for  
7 the past 17 years. Psych report was done on  
8 11/21/04, so it's about almost a year old by Dr.  
9 Magner, M-A-G-N-E-R. There were two violent  
10 offenses noted. One in '85 and one in '87,  
11 (indiscernible) stabbing. In '85 inmate notes  
12 that "he wanted me to hurt this guy." Inmate  
13 relates that he made an attempt but it's not  
14 known how badly he actually hurt him. You were  
15 involved in a fistfight in 1987. He also had  
16 one in '86, violent offense, assault.

17 "Given the above history, the  
18 fact that the inmate has  
19 remained disciplinary free for  
20 such an extended period of time,  
21 it's likely that potential for  
22 violence would be somewhat less  
23 than the average level four  
24 inmate, if released to a free  
25 community. It's felt that his  
26 potential for violence would be

)

1           about average for a 43-year-old  
2           male. Certainly precursors of  
3           that would be relapse into  
4           substance abuse."

5   We all worry about that, stresses out in the  
6   community. But you've got some certainly  
7   mitigating factors for that.

8           "Other potential factor would be  
9           a loss of family support. And  
10          that doesn't appear to be a  
11          problem at this point. The  
12          inmate's release plans appear  
13          feasible. His family support is  
14          very strong, as described by the  
15          inmate. Subsequently, prognosis  
16          for successful community living  
17          would be considered good,  
18          provided the inmate remain  
19          substance free and continue to  
20          have family support."

21   Those are your two strengths. Those are your  
22   two rocks. Okay. Substance free, family  
23   support. That's why it's important no matter  
24   what you do in your self-help in the next two  
25   years, so important that you show the next Panel  
26   that you have a strong, substance-free support,

27   **LUIS CASTILLO C-73437 DECISION PAGE 9 11/17/05**

1 and you understand yourself and you understand  
2 what lifelines may be out there in the community  
3 for you as well, okay, in Mexicali, because more  
4 than likely that's where you are going to end  
5 up. And I appreciated your comment in your  
6 closing remarks that you felt that that might be  
7 the best place for you and what you're doing, I  
8 think, is two things. One is you've probably  
9 made a fair assessment of that and the second is  
10 that's the reality. Okay. Suggest that the  
11 inmate attend AA, NA. That's coming from your  
12 psychologist. "He's reported to be on a waiting  
13 list for these services. No recommendations  
14 made for any mental health services at this  
15 time." I think we are all on the same page,  
16 quite frankly. Parole plans, I agree with your  
17 counsel. Parole to Mexicali is the viable  
18 choice with your father. You've got a job offer  
19 down there. You've got a place to stay. If you  
20 wanted to, you could expand those in case that  
21 job offer fell through for some reason or  
22 another: You weren't making enough money, you  
23 had an argument with Mr. Nunez. I mean, there's  
24 a lot of things that could happen. If you want  
25 to make God laugh, tell him what you are doing  
26 tomorrow. Right? Okay. So you do have a  
27 **LUIS CASTILLO C-73437 DECISION PAGE 10 11/17/05**

1 marketable skill, sir, and you do have a  
2 wonderful, supportive family. And for them to  
3 come here, and this is hard for them. Very hard  
4 for them to see you here and to have to -- it's  
5 very emotional for them. We understand that.  
6 We do have a negative response from the district  
7 attorney in the form of a letter opposing any  
8 parole for you. And he primarily based that on  
9 the life crime, the commitment offense, and your  
10 history. All these factors I discussed here are  
11 positive aspects, but it doesn't outweigh the  
12 factors of unsuitability at this time. And as I  
13 said before, two years. In a second finding, in  
14 a separate decision, find that the -- even  
15 though we're years away from the 115s, an  
16 assaultive behavior, sir, we have to pay  
17 attention to assaultive behavior, the substance  
18 abuse involved, even though you said you were  
19 doing pruno for other people, but still that  
20 weighs heavily. The weapons that you had, even  
21 though you said that the razor blades were for  
22 your sewing, they are still weapons and  
23 violations of the prison rules. And we look at  
24 history to determine the future. And even  
25 though you separated yourself from those and  
26 commendably, we still -- they still are there.  
27 **LUIS CASTILLO C-73437 DECISION PAGE 11 11/17/05**

1 So when we take the scale and we pile all the  
2 bad stuff on one side and all the good stuff on  
3 the other, you're coming out almost even. And  
4 two-year denial on initial hearing usually, sir,  
5 especially with a crime like this, is a pat on  
6 the back to you, and we felt very strongly that  
7 we didn't want to discourage you. We didn't  
8 want to give you a date, but we didn't want to  
9 discourage you either and we want to give you  
10 two years to strengthen your package.

11 Commissioner, do you have anything you would  
12 like to say?

13 **DEPUTY COMMISSIONER BENTLEY:** I just want  
14 to point out we could have denied you for parole  
15 up to five years, but we chose to let you know  
16 that we feel that you are on the right track.

17 **INMATE CASTILLO:** Thank you.

18 **DEPUTY COMMISSIONER BENTLEY:** Okay.

19 **PRESIDING COMMISSIONER SAWYER:** And  
20 again, I thanked your father and your sister for  
21 coming in, but you being here has a significant  
22 effect because you're proving -- and we're not  
23 just reading a letter -- we're seeing people  
24 that are sincere in supporting their brother and  
25 their son. And we do appreciate you coming  
26 here, and it's very valuable. It's very **LUIS**

27 **LUIS CASTILLO C-73437 DECISION PAGE 12 11/17/05**

1 valuable and so you've done a very good thing  
2 today. No more 115s, 128s. Work to reduce your  
3 custody level. Continue to do your self-help.  
4 Stay discipline free. Earn the positive  
5 chronos, as you've been doing, and talk hard to  
6 those kids. Okay? The time is 11:25. That  
7 concludes this hearing. Good luck to you, sir.

8 --oOo--

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**MAR 17 2006**

23 **PAROLE DENIED TWO YEARS**

24 **THIS DECISION WILL BE FINAL ON: \_\_\_\_\_**

25 **YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT**  
26 **DATE, THE DECISION IS MODIFIED.**

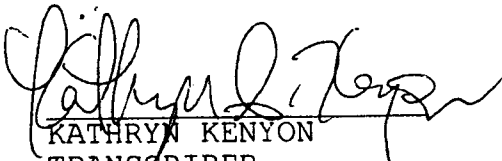
27 **LUIS CASTILLO C-73437 DECISION PAGE 13 11/17/05**

CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, KATHRYN KENYON, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total two in number and cover a total of pages numbered 1 - 108, and which recording was duly recorded at CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA, in the matter of the INITIAL PAROLE CONSIDERATION HEARING OF LUIS CASTILLO, CDC NO. C-73437, ON NOVEMBER 17, 2005, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated December 11, 2005, at Sacramento,  
California.

  
KATHRYN KENYON  
TRANSCRIBER  
**PETERS SHORTHAND REPORTING**

**EXHIBITS B**  
(MENTAL HEALTH EVALUATION, 2004)

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**MENTAL HEALTH EVALUATION  
BOARD OF PRISON TERMS**

|               |                         |                  |                |
|---------------|-------------------------|------------------|----------------|
| <b>NAME:</b>  | <b>CASTILLO, LUIS</b>   | <b>CDC#:</b>     | <b>C73437</b>  |
| <b>D.O.B.</b> | <b>07/19/1961</b>       | <b>HOUSING:</b>  | <b>D4-246U</b> |
| <b>DATE:</b>  | <b>October 21, 2004</b> | <b>LOCATION:</b> | <b>CAL</b>     |

**PSYCHOSOCIAL ASSESSMENT**

**I. IDENTIFYING INFORMATION:** The inmate is a forty-three year old Hispanic male who is interviewed this afternoon in the D-Facility Medical Clinic. This evaluation included an interview with the inmate, review of the Central File and the Unit Health Record. The inmate's marital status is single. His religion is Christian. No aliases. No unusual physical characteristics. The inmate reports tattoos on his chest and back and a Walt Disney character on his knee.

**II. DEVELOPMENTAL HISTORY:** The inmate was born in Mexicali, Mexico. As far as the inmate is aware, there were no prenatal concerns or birth defects. The usual developmental milestones were attained in a timely fashion. In terms of socialization skills, the inmate notes that he played with a number of youngsters in the neighborhood. He would be involved in playing marbles, soccer kickball, baseball and some football. The inmate notes that he played Pop Warner football for one year. He relates that he had some very close friends growing up. Mr. Castillo denies history of cruelty to animals, enuresis and arson. There is no significant childhood medical history. The inmate denies being a victim or a perpetrator of physical or sexual abuse.

**III. EDUCATION:** The inmate attended school through the eleventh grade. He left school because he, "went off to work." He is noted to have attained his GED on 05/13/02. His T.A.B.E. measured a grade level on 05/02/2001 shows reading 9.4, math 7.1, language 10.6, total 9.1. There is no history of special

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education, academic or behavioral problems. The inmate has studied through a Christian Bible College. He would like to pursue a B.A. in theology.

**VI. FAMILY HISTORY:** The inmate's mother is deceased approximately two years ago due to cardiac problems. His father is seventy-seven. His father has no mental, or substance abuse problems. However, the inmate relates that his father underwent open heart surgery about a year and a half ago. His father graduated from high school, and currently does some work for his pastor, in the form of carpentry, odd jobs, etc. The inmate's father has no legal or criminal background.

The inmate has two brothers and three sisters. None of his siblings have any mental, medical or substance abuse problems. There is no history of any sibling with legal or criminal problems, as well, with the exception of Art, who is incarcerated for illegal entry into the United States. His oldest sister, Christina, is age fifty. She attended some college and works in a bank. Mark is age forty-six, and attended school until the tenth grade. He had been employed previously in auto body. His sister Terri is age forty-one is a high school graduate. She also works for a bank. John is thirty-nine years old and attended school until the eleventh grade. He is employed as a gardener. Claudia is thirty-five years old and is a high school graduate. Claudia owns her own diner. She also seems to sell some movies, as well.

The inmate notes that he has a great relationship with his family. This has been more so over the past ten years, since his family has been able to visit. His relationship has been very close both historically and currently. He notes that his family visits approximately once a month.

**V. PSYCHOSEXUAL DEVELOPMENT & SEXUAL ORIENTATION:** The inmate reached puberty at about age thirteen. He has no current relationship. Sexual orientation is heterosexual. The inmate denies any disorders or dysfunction which are either ego syntonic or dystonic. The inmate further denies high risk behavior, sexual aggression and fantasy.

**VI. MARITAL HISTORY:** The inmate has never been married. He does have one daughter who is twenty-four years old. He describes this as a very good relationship over the last six years. The inmate notes that when his daughter was younger, her mother kept her away from him.

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**VII. MILITARY HISTORY:** Mr. Castillo has no history of military service.

**VIII. EMPLOYMENT / INCOME HISTORY:** The inmate notes that he has been working around auto body from age twelve. He did have a job as a gardener for the school board for about one year in 1980. His reason for termination was that he had failed the written test twice, which he attributed to his lack of formal education. In terms of work skills, he describes auto body, gardening, carpentry and landscaping. Mr. Castillo has never been involved in any government programs or on public assistance. He has no money management skills. His aptitudes would include carpentry. In terms of other interests, he would like to learn more about the food industry, especially learn how to cook. In terms of substance abuse history, the inmate notes "I am in prison because of cocaine." The inmate is noted to have a number of laudatory chronos.

**IX. SUBSTANCE ABUSE HISTORY:** He denies any other substance abuse history. The inmate has participated in the Life Skill program. He reports that he has never used an illegal substance while incarcerated. He relates that he last used alcohol in 1984. The inmate does not feel he has any current problems in this area.

**X. PSYCHIATRIC / MEDICAL HISTORY:** The inmate denies history of major illness or hospitalizations. There is no history of any significant injury or accident. History of suicidal/homicidal or assaultive behavior is denied, with the exception of the instant offense noted. History is negative for seizure disorder or other neurological conditions. There are no disabilities, impairments or illnesses present. The inmate is currently noted to be taking Lipitor 10mg for cholesterol. He is taking Lopressor 25mg bid for his blood pressure.

**XI. PLANS IF RELEASED:** The inmate actually has two potential plans should he be granted release. This is due to the fact that he is on INS hold, and his status is unclear. If the inmate is deported, he would plan to move to Mexicali. The inmate's father currently owns his own home in San Diego, and would plan to sell this and move to Mexicali, as well. The inmate hopes to be able to take care of his father. If deported to Mexico, the inmate has a job waiting for him in the automotive service business. In this regard he would be

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doing light automotive work such as brakes, tune-ups and wheel alignment. He has this job available through a friend of his father's. If released in the United States, his father's pastor owns a construction company. This friend of his father would be willing to give him a job working in construction. In the future, the inmate aspires to open a small body shop. The inmate relates that his brother John and sister Claudia would help him financially, especially to help him start his own business. The inmate has never been on parole or had any outpatient treatment. The inmate is currently noted to be on a waiting list for AA/NA. The inmate does not envision any problem areas with regard to his potential release. His support relationships would include his father, brother John and sister Claudia. He also notes that his father's friend and his father's pastor would also be a significant source of support. Also noted are his daughter and a number of nephews and nieces. The prognosis for community living would be considered good, assuming the continued family support which the inmate describes as well as his ability to remain free from any substances.

### **CLINICAL ASSESSMENT**

**XII. CURRENT MENTAL HEALTH STATUS/NEEDS:** The inmate is noted to have presented on time for his scheduled appointment in the Facility D Clinic. He is appropriately dressed in prison attire and is neatly groomed. The inmate is noted to make good eye contact throughout the course of this afternoon's interview. He sits in a relaxed manner in the chair with his legs crossed. He is noted to be alert and oriented in all spheres. His speech shows good flow and content. Mood is euthymic. Affect is appropriate to thought content. There are no vegetative symptoms present. Nor are there any features present which would be consistent with any type of psychotic disorder. Perceptual disturbances are denied. The inmate denies any suicidal or homicidal ideation or intention. The inmate's prognosis is considered good for continued good mental health function.

#### **DIAGNOSIS:**

**Axis I:** Cocaine dependence, in remission.  
**Axis II:** Deferred.  
**Axis III:** Deferred to Medical.  
**Axis IV :** Pending BPT.  
**Axis V:** The inmate has maintained a good level of adjustment in a controlled setting.

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**XIII. REVIEW OF LIFE CRIME:** In describing his version of the instant offense, the inmate notes that he and his co-defendants went in to "get some quick money that night." He states that he and his co-defendants thought that they could get in there and get some money, "and something went wrong. We stayed in there too long. At the point of exiting, the officers were already there." The inmate notes that he and his co-defendants ran out of the back and there were officers there. They then took off and went a few blocks, and eventually the car "spun out." The inmate notes that one of his co-defendants made the mistake of shooting [at the officers]. The inmate then notes that everyone ran out and was trying to get away. "I tried to get my brother out of the car. But he did not want to get out, he wanted to give up." The inmate then notes that he ran out, heard some shots, but did not turn around. "I was trying to get away. I fell over one of my co-defendants, because it was dark." The inmate notes that he then stopped to try and help his co-defendant, but was told to leave and keep running. The inmate then dragged him a little ways to an alley and left him there. "I was arrested the next morning."

With regard to his attitude towards the [victim], the inmate notes that they worked very hard for their money. "They were hurt by us coming in there and threatening them for their money and their jewelry. We were there taking their hard earned money." The inmate demonstrates some empathy and remorse. "I wish I could say I am sorry. How can you say you're sorry?" The inmate also notes that he is sorry that he kicked the officer in the side. "He was just trying to do his job. I am also sorry that I said the things that I said to him." In terms of causative factors, "I wanted to buy more cocaine." The inmate also notes that he had been drinking hard liquor that night, "but I cannot tell you how much." He is unsure of how much under the influence he may have been at that time. The inmate goes on to state that he is sorry that he put the officers through "what we put them through that night." He concludes with "we live with many regrets over the years for that day and the dumb things we did when we were young."

**XIV. ASSESSMENT OF DANGEROUSNESS:** The inmate has demonstrated a good disciplinary history for the past seventeen years. There are two violent offenses noted, one in 1985 and one in 1987. Describing the stabbing in 1985, the inmate notes that "they wanted me to hurt this guy." The inmate relates that he made the attempt, but does not know how badly he actually hurt him. He was involved in a fist fight in 1987. Given the above history and the fact that the inmate has been disciplinary free for such an extended time, it is likely that his potential for violence would be somewhat less than an average Level IV inmate.

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If released to the free community, it is felt that his potential for violence would be about average for a forty-three year old male. Certainly, precursors to that would be relapse into substance abuse. Another potential factor would be loss of family support.

The inmates release plans appear feasible. His family support is very strong, as it is described by the inmate. Subsequently, prognosis for successful community living would be considered good, providing that the inmate remain substance free and continue to have family support.

**XV. CLINICIAN OBSERVATIONS / COMMENTS / RECOMMENDATIONS:**

I would suggest that the inmate attend AA/NA. He is reported to be on a waiting list for these services at this time. There are no recommendations made for any mental health services at this time.

  
JOHN R. MAGNER, PhD  
PSYCHOLOGIST  
CALIPATRIA STATE PRISON

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## **EXHIBITS C**

(LIFE PRISONER EVALUATION REPORT, 2005)

LIFE PRISONER EVALUATION  
INITIAL PAROLE CONSIDERATION HEARING  
JANUARY 2005 CALENDAR

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**I. COMMITMENT FACTORS:**

A. **LIFE CRIME:** Castillo was convicted by Los Angeles County for the controlling offense of 1 count of PC 187 Murder 1<sup>st</sup> on Case #A375051 for which he received a sentence of thirty-five (35) Years to Life. The victim's name was his brother, Frank Castillo, twenty-eight (28) years old at the time of the crime. Castillo was transported to the California Department of Corrections (CDC) on 09/23/83 and his Minimum Eligible Parole Date (MEPD) was calculated to be 12/20/05

1. **SUMMARY OF CRIME:** On January 10, 1982, at approximately 1:15 a.m., defendants entered Rusty's Hacienda Restaurant, 1331 South Boyle Avenue, in Los Angeles, armed with handguns and a shotgun. Approximately one hundred and twenty five (125) customers were in the restaurant at the time. According to the testimony of Manuel Bendana (victim in count 19), who was working as the manager, when the three (3) defendants entered, they were not dressed in proper attire. They asked to use the bathroom. After what seemed an appropriate amount of time, he checked to see they had left and was confronted by all three defendants in possession of handguns. They checked the manager's jacket to see if he had a gun and told him they wanted money. Castillo then went to the bar and shot at the ceiling with the shotgun and robbed customers and employees of money and jewelry. One of the customers present at the time was Ramon Castillo, an off-duty Los Angeles Police Department (LAPD) Officer who was working as restaurant security officer (victim in count 11). When he heard the gunshot and saw people screaming and running, he drew his revolver and walked towards the end of the bar where he saw Inmate Castillo holding a shotgun. Officer Castillo put his gun in his waistband; and when questioned by Inmate Castillo, as to whether he had a gun, he said no and was ordered to lie face down on the floor with the barrel of the shotgun in his back. He was then searched, and the gun was found. Inmate Castillo then ordered him to stand up and at gun point, directed him to walk to the east end of the bar where he was handcuffed to victim Bendana. A few seconds later, he was ordered to lie down on the floor; and shortly after that heard one of the defendants yell, "La Placa (Spanish slang for police) coming". At approximately 1:30 a.m. on January 10, 1982, Patrol Officers J. Nuñez, (victim in counts two and three) and R. Argomaniz (victim in counts four and five) responded to a possible robbery in progress. Upon their arrival they were told by another officer standing outside that the robbery was in progress with suspects and possible hostages still inside. The two uniformed officers, driving a marked LAPD car went to the rear and saw three persons with bags in their hands, running across the parking lot to a parked, 1980 Chevrolet, in which a driver was waiting. They got in the car and sped away. As they approached the intersection of Santa Fe, shots were fired from suspects' vehicle at the patrol officers. The pursuit continued northbound Santa Fe toward Seventh Street, at which time Officer Mirabel (victim in counts six and seven) and Officer Lund (victim in counts twelve and thirteen) joined in the pursuit. Mirabel and Lund, also driving a marked patrol car, were driving Southbound on Santa Fe Street, when the defendants shot at them in their patrol car. The defendants' vehicle traveling at a high rate speed eventually spun out of control and stopped against a curb. The chase had covered a distance of 1.5 miles. As Officer Nuñez and Argomaniz got out of the car at the intersection at Seventh Street and Anderson, they observed the defendants with guns firing shots at them.

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The officers returned fire. Officer Mirabel arrived and took up a position at the southwest corner of the building and saw the three defendants exchanging gunfire with Officer Nuñez and Argomaniz. The defendants then observed Officer Mirabel at the time, and fired at him while they ran into a junkyard. An LAPD helicopter had arrived at the scene and illuminated the defendant's car and was also fired upon. Officers fired several rounds from their service revolvers at the suspects who had attempted to conceal themselves from both ground units and the helicopter. The Inmate's brother, Frank Castillo was pulled from the car. He had sustained gunshot wounds to the head and died at the scene. At about 4:00 a.m., co-defendants Ledesma and Prado emerged from the salvage yard where they had tried to hide and surrendered without incident. Both had been wounded by the gunfire and were taken by ambulance to White Memorial Hospital for treatment. Shortly thereafter, Luis Castillo was found in the salvage yard after a systematic search using a police dog. He was taken to White Memorial Hospital and treated for dog bite injuries. Officers later recovered several bags of money and jewelry taken in the robbery, as well as a sawed-off shotgun and several handguns. No officers were injured in the gun battle. The information used in portraying circumstances of the Commitment Offense was taken from the Probation Officer's Report (POR).

2. **PRISONER'S VERSION:** Going back to January 10, 1982 I remember sitting in a parking lot of one of my co-defendant's apartment buildings. As we sat there we thought on some quick money and the first thing that came across was the Restaurant. We made quick plans and went in to try and rob the place, unfortunately everything went wrong that night, the officers got there and we were trying to get away. Shots were fired and when everything was done and said, two (2) of my co-defendants were shot in the back and my brother Frank was killed in the back seat of the vehicle. I was later arrested from where I was hiding. I would like to express to the board that I was a 19 year old man that was uneducated, had a cocaine habit and made a lot of bad choices. The decisions I made as a young man cost my brother his life. I hurt my parents, my daughter, I lost my fiancé, my freedom my nephew grew up without a father and his wife became a young widow it is something I have to live with for the rest of my life. I am now a 43 year old man that has taken advantage of the self-help groups and has learned to read, write and spell. Because of hard work and a lot of help I got my General Education Diploma (GED) and took a 4 year Christian college course from which I graduated. I've learned that the decisions and choices I made were all wrong and have repented and regretted all the things I did as a young man. I would like the opportunity to get out and look after my father and help my daughter raise my grandkids.

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B. AGGRAVATING CIRCUMSTANCES:

1. AGGRAVATING FACTORS:

- a. Inmate had opportunity to cease but continued with crime.
- b. Circumstances of crime created potential for serious indurate to others.
- c. Multiple Victims
- d. Past criminal history.
- e. Use of weapon.
- f. Use of Alcohol or drugs in crime.
- g. Actively planned conspiracy or induced others to participate.
- h. Nature of crime exhibited viciousness, cruelty, or callousness.

2. MITIGATING FACTORS:

NONE

C. MULTIPLE CRIME(S):

1. SUMMARY OF CRIME:

Castillo was convicted by Los Angeles County for the following non-controlling offenses: 8 counts of PC 187/664 Attempted Murder, 8 counts of PC 245(b) Assault with Great Bodily Injury (GBI) with a Deadly Weapon, 14 counts of PC 182/211 Conspiracy to Commit Robbery on Case # A375051 sentence of thirty five (35) years to Life. The victims were various officers of the Los Angeles Police Department and various customers at the restaurant.

2. PRISONER'S VERSION:

Remains the same as in previous prisoner's version.

II. PRECONVICTION FACTORS

A. JUVENILE RECORD:

Probation files note that the defendant has three juvenile probation files, which have been destroyed. CII showed two arrests as a juvenile; age 16 for Assault with a Deadly Weapon (nun-chuck sticks) in which he was released for insufficient evidence (no date). Second arrest on 06/14/79 for 12020 PC (Possession/Manufacturing /Selling Dangerous Weapon) in which he was released to parent or guardian. When interviewed, the defendant said that he was arrested when he was about 16 or 17 for an open container, placed on probation, fined and denied any other arrests as a juvenile. This information was obtained from the CI&I report

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**B. ADULT CONVICTIONS AND ARRESTS:**

10/14/81 LAPD – 211 PC (ROBBERY) – A149652, charged with 211PC (Robbery with use of a Firearm), CTS. 1 through 20; 245(A) PC, CT; 236PC (False Imprisonment); CTS. 22 through 24 Use of a Firearm and Great Bodily Injury Allegation as to CT. 21; convicted of all counts and all allegations; 07/06/83, Dept. NW-R, sentenced to state prison for a total of 23 years and 8 months.

(The Defendant and two crime partners were charged with a series of robberies which occurred in Aug. Sept., and Oct. of 1981 at various markets and drugstores in which the safes were forcibly opened at gunpoint. Various customers in the store, mostly employees, were also robbed. The victims were threatened and intimidated; and in one of the robberies at a Ralph's the Defendant shot one of the victims in the stomach, resulting in removal of part of his intestine and loss of his spleen while he was kicked on the ground. During the pre-sentence investigations, the defendant said that he might have done about four of the robberies with which he was charged for but denied shooting anyone and claimed that he was involved because of his hanging around with the wrong people.)

01/10/82 LAPD – 187 PC (Murder) – Refers to the present offense.

Castillo was on bail from his previous arrest in case A149652 when he committed the Commitment Offense and his release on bail is deemed poor since he now has another commitment.

**C. PERSONAL FACTORS:**

The defendant was born in Mexico, one of eight children, raised by his parents Jose and Dolores Castillo. He says that he came to this country legally in 1964 with his family and has resided here ever since, but there is a USINS hold/detainer in his C-File for violation of immigration laws. He attended school until the ninth grade, dropped out at age 17, and started working, although his work history is sketchy. In a previous investigation, defendant said that he had worked as a security guard for a couple of years and quit over a pay dispute. He also claims to have worked as a gardener for about a year for the Los Angeles City School Board in 1980 and 1981 and to have been laid off when he failed to pass his probationary term. He has never married but had a sporadic off-and-on relationship with Yolanda Onteberos. The couple has one child, who is now 24 years of age. According to the defendant, he had been injecting cocaine for three years, every other day and had a \$200.00 a week habit. He denies the use of other narcotics or drugs. During the investigation in his prior Commitment, the defendant acknowledged the use of Marijuana and said that he had tried Cocaine a couple of times. Castillo denied any gang affiliation. Records indicate that he was a past member of Clanton Street Gang of North Hollywood, but there is no evidence of current affiliation. One of the defendant's brothers, Frank Castillo, was the victim in count one in the present offense. The source of information for the above description is taken from the POR dated 06/09/83.

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### III. POSTCONVICTION FACTORS

#### A. SPECIAL ACCOMMODATIONS/DISABILITY:

The Inmate claims no disability and none were noted by this Counselor.

#### B. CUSTODY HISTORY:

Inmate Castillo was admitted to CDC at California Institution for Men Reception Center (CIM-RCC) on 09/23/83 and transferred on an non adverse to Folsom State Prison (FOL) on 10/28/83 where his custody was set at Close A (CLO-A), Work Group/Privilege Group (WG/PG) A2-B, and placed on a Waiting List (W/L). On 05/14/85, Castillo was assigned to Education, CLO-A custody and WG/PG A1-A. On 05/24/85, CDC 128-G notes CLO-A custody and WG/PG A1, however Inmate was housed in Security Housing Unit (SHU) due to CDC 115 dated 05/20/85 for Assault/Stabbing of Inmate (Inmate was found guilty on 06/10/85). On 06/25/85, Inmate continued to be house in SHU, Custody Max-A and WG/PG D-2. Inmate was given a 24-month term with a controlling Minimum Eligible Release Date (MERD) of 11/20/86. On 08/19/86, Inmate continued to be housed in SHU, Max-A custody, WG/PG D-2. Inmate was originally placed SHU on 05/20/8 for Stabbing Assault and received a MERD of 11/20/86. This MERD was enhanced for Possession of Dangerous Contraband and Assault on Inmate with his current MERD of 08/07/88. On 08/30/86, inmate's case had been screened for an emergency transfer to CCI-IV SHU from FOL SHU to facilitate closure of FOL SHU. On 10/24/86, Inmate was transferred on an adverse transfer to CCI-IC SHU, his Custody was set at Max-A and WG/PG A-1. On 01/29/87, classification changed his work group status to D-1 pursuant to a court decision and CDC Administrative Bill 87/3, his Custody was retained at Max-A. On 10/08/87, Initial Classification Committee (ICC) held his Annual Review, his custody remained at Max-A and WG/PG D-1, his classification score increased due to the following CDC 115's, Possession of Dangerous Contraband Assault on Inmate dated 02/23/86, being involved in a Fist Fight with an Inmate dated 05/26/87, Inmate Manufactured Alcohol dated 08/23/87, Possession of an Inmate Manufactured Sewing Needle & State Issued Razor Blade date 08/23/87. On 12/03/87, Custody remains at Max-A WG/PG D-1, ICC confirmed the adjusted MERD of 02/07/89 based on the following CDC 115's Destruction of State Property, Dangerous Property, Fighting, (2) for Possession of Razor Blades. On 09/08/88, ICC held his Annual Review, his custody remained at Max-A and WG/PG at D-1. On 10/19/88, ICC assigned inmate as a Tier Tender. His WG/PG changed from D-1 to B and Custody remained at Max-A. On 11/16/88 Unit Classification Committee (UCC) removed inmate from his Tier Tender assignment due to problems encountered with other inmates and change WG/PG from B to D-1, his custody remained at Max-A. On 02/10/89, ICC released Inmate to CCI-IV General Population (GP) after his MERD of 02/07/89. His Custody remained at Max-A and WG/PG D-1. On 02/23/89, Classification Services Representative (CSR) endorsed

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inmate to CCI-IV FP at completion of MERD. On 03/01/89, UCC changed his status from D/D-1 to PG: B WG: A-2 effective 03/01/04 and maintain CLO-A custody. On 03/24/89 inmate was assigned and his WG changed from A-2 to A-1. On 10/20/89, UCC elected to reduce inmate's custody from CLO-A to CLO-B. His PG: A WG: A-1 remains the same. On 03/14/90, at his Annual Review his Custody remains at CLO-B and PG: A WG: A-1. On 03/27/91, at his Annual Review his Custody remains at CLO-B and PG: A WG: A-1. On 02/05/92, at inmate's Annual Review his Custody remains at CLO-B and PG: A WG: A-1. On 10/29/05, Inmate's Custody changed from CLO-B to Max-A and PG: D-1 due to being placed in Administrative Segregation (Ad-Seg) on 10/23/92 being involved in a physical altercation on the Level IV "A" yard between a large group of Hispanic inmates during which one was shot in the leg. On 11/17/92, UCC elected to remove inmate from Ad-Seg and place in Orientation. Change his WG/PG from DD-1 to BA-2 effective 11/17/92 and refer Orientation counselor for presentation before UCC for program review. On 11/19/92 UCC elects to reduce Custody from CLO-A to CLO-B and place him on a W/L. On 12/16/92, UCC notes that inmate received a CDC 115 which reduced to a CDC 128-B. Due to the reduction, committee elected to institute the following changes, Change WG/PG BA-2 to AA-1 effective 10/23/92, grant Work Group Change at AA-1 from 10/23/92 through date of hire and place on the Industry D Priority W/L. On 10/06/93, at his Annual Review, Custody remains at CLO-B and WG/PG A-A1. On 09/28/94, at his Annual Review, Custody remains at CLO-B and WG/PG A-A1. On 10/25/95, at UCC committee elects to reduce inmate's custody from CLO-B to Med-A due to subject being over half way to the MEPD. His WG/PG remains at A1-A. On 10/30/96 at his Annual, Custody remains at Med-A and WG/PG A1-A. On 03/26/97, UCC elects to change Custody from Med-A to CLO-B due to the Department's new guidelines. WG/PG remains at A1-A. On 10/22/97, Annual Review his Custody remains at CLO B and WG/PG A1-A. On 12/16/98, UCC at his Annual Review his Custody was reduced to Med-A and WG/PG remains at A1-A. On 07/07/99, UCC elects to refer CSR RX/TX to CAL-IV (270) due to CCI-IVA mission change in preparation for activation of SHU Facility. His Custody remains at Med-A and WG/PG A1-A. On 07/22/99, CSR endorsed inmate to CAL-IV. On 08/19/99, UCC of CAL-IV elects to maintain Custody at Med-A and WG/PG A1-A effective 10/23/92 and place on ABE-? And Support Services (SS) W/L. On 02/01/00, at his Annual Review UCC elects to continue present program, Custody remains at Med-A and WG/PG A1-A effective 10/23/92. Inmate is currently assigned as Clerk/Porter. On 06/15/00, ICC Ad-Seg notes that on 05/10/00 inmate was placed in Ad-Seg as a result of housing concerns. His Custody is MAX and WG/PG: D1/D effective 05/10/00. On 06/22/00, ICC Ad-Seg elects to release inmate to Facility "D" Sensitive Needs Yard (SNY), Grant Med-A custody and WG/PG A1-A effective 10/23/92. Grant "S" time from 05/10/00 until rehire. Place on the SS and Voc W/L. On 10/17/00, at his Annual Review, inmate's custody remains at Med-A and WG/PG A1-A effective 10/23/92. On 06/13/02, UCC elects to remove inmate from "D" Vocational Education Office due to completion of program and place him on the SS and Clerks W/L. Custody remains at Med-A and WG/PG A1-A effective 10/23/92 and continue present program. On 10/28/03 at his Annual Review his Custody remains at Med-A and WG/PG A1-A effective 10/23/92.

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Castillo completed the following educational/vocational programs: He completed the Auto Body and Fender program on 06/24/02. He also completed the following components of the Vocational Printing programs:

|          |  |
|----------|--|
| 11/06/97 | Business Management V09.03.14          |
| 10/31/97 | Basic Camera Operation C09.0311        |
| 10/31/97 | Process Ink and Color Mixing V09.03.12 |
| 10/31/97 | Art and Copy Preparation V09.03.13     |
| 10/30/97 | Press Print V09.03.08                  |
| 10/30/98 | Hand Printing V09.03.06                |
| 10/27/97 | Shop and or Site Safety V09.03.02      |
| 10/10/97 | Orientation V09.03.01                  |

He did not complete the program due to mission change in preparation for activation of SHU Facility.

On 02/06/04 Castillo received a Degree of Graduate Theology from the Gulf Coast Bible Institute.

**C. THERAPY & SELF-HELP ACTIVITIES:**

There is no evidence of participation in psychological therapy or Narcotics/Alcoholics Anonymous (NA/AA) self-help groups.

**D. DISCIPLINARY HISTORY:**

|          |   |
|----------|---|
| 08/21/84 | Contraband Cigarettes on Person; Guilty, Reduced to Administrative                      |
| 09/05/84 | Out of Bounds; Guilty   |
| 05/20/85 | Assault/Stabbing of Inmate; Guilty  |
| 12/16/85 | Hype-Kit in Cell; Guilty  |
| 02/23/86 | Possession of Dangerous Contraband Assault on Inmate; Guilty                            |
| 04/29/87 | Destruction of State Property; Guilty   |
| 05/26/87 | Being Involved in a Fist Fight; Guilty  |
| 08/23/87 | Possession of Inmate Manufactured Alcohol; Guilty                                       |
| 08/23/87 | Possession of an Inmate Manufactured Sewing Needle and State Issued Razor Blade; Guilty |
| 10/10/87 | Possession of a Razor Blade; Guilty   |
| 10/22/87 | Control of an Inmate Manufactured Alcoholic Beverage; Guilty                            |
| 10/29/87 | Control of an Inmate Manufactured Alcoholic Beverage (Pruno); Guilty                    |
| 11/25/87 | Dangerous Property; Guilty  |
| 12/27/87 | Control of Dangerous Contraband; Guilty   |

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E. OTHER:

On 05/10/01 Inmate Castillo appeared before Board of Prison Terms (BPT) for a Documentation (DOC) #4 hearing and the Board recommended that the inmate complete the Voc Auto Body and Fender program, obtain his GED and remain disciplinary free. Inmate Castillo has remained disciplinary free, received a Vocational Education Certificate of Completion on 06/24/02 and received his GED on 05/13/02.

IV. FUTURE PLANS

When I parole I plan to make my home in Mexicali, B.C. where I can pursue the trades I've been certified in, I'll have a job the day I get out at Nuñez Mechanic Shop in Mexicali. I plan to save enough money to get my own little body shop, I have some money saved up from the years I worked at CCI, PIA. I also plan to help preach on Sundays at Centro De Alabanza in Mexicali, comunidad Christiana (686) 839-0242 and help the pastor out in whatever I can. I would also like to continue to share my life experience with the youth in Mexicali. Many of the counselors that have visited the prison through the Straight Life Youth Diversion Program have expressed this, so if given the chance I will be there for the youths. I plan to take care of my father and spend the last years of his life with him, I lost my mom in April of 2002.

A. RESIDENCE:

If unable to reside in the United States I plan to reside with my father Jose Carillo and family friend Marco Antonio Aguilar at the following address:  
Avenida De La Jolla 2310, Frac: Villa Colonial, Mexicali Baja California.

If I am able to stay in the United States I plan to reside with my father Jose Castillo at the following address: 10707 Jamacha Blvd. Space #169, Spring Valley, CA 91978, (619) 421-6681.

Inmate Castillo's parole plans are supported by letters of support in the BPT section in the miscellaneous area.

B. EMPLOYMENT:

Taller Nuñez Mechanic Shop

Sergio Nuñez (Owner)  
Avenida Violetas #95  
Col. Alamos  
Mexicali, B.C. 21210

At this time the counselor notes that Inmate Castillo's employment plans are not supported by a letter of employment, however inmate stated that the letter is in route.

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C. ASSESSMENT:

Inmate Castillo was calm, polite and courteous during his interview. He has positive support from his family members, father and family friend as per his letters of support. His employment does not seem sustainable at this time due to unable to verify letter of employment.

V. USINS STATUS


Castillo has a USINS hold # A17175321, located in the Detainers section of his C-File and which is recorded on the CDC-112.

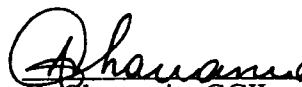
VI. SUMMARY

- A. TEMPORARY ELIMINATION OF THE RISK OF THREAT ASSESSMENT IN THE MODEL BOARD REPORT FORMAT AS PER STATE MEMORANDUM DATED AUGUST 5, 2004.
- B. Prior to release, the prisoner could benefit from:
1. Establish and maintain a disciplinary free record.
  2. Participate in Self-Help groups.
- C. This report is based on an interview with the inmate on 09/23/04 lasting approximately 50 minutes and a complete review of the Central File lasting 20 hours.
- D. Inmate Castillo was afforded an opportunity to review his Central File and elected not to review it on 09/23/04.
- E. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceedings Remedial Plan for effective communication

Prepared by: N. Delgado

Reviewed by: G.R. Chavarria

  
N. Delgado, CCI

  
G. Chavarria, CCII

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**PROOF OF SERVICE**

Case Name: In Re LUIS COSTILLO V. L. SMALL, WARDENT (A)

I, TERESA CASTILLO, declare that I am a citizen of the United States; I am over the age of eighteen (18), and I am / am not a party to the within titled cause; my address is: 295 C.ST. CHULAVISTA, CALIFORNIA, 91910

On July 31, 2008, I served the attached:

PETITION FOR WRIT OF HABEAS CORPUS; MEMORANDUM OF POINTS AND AUTHORITIES on the parties listed below by enclosing same in an envelope to which adequate postage, i.e., first class/certified mail, was affixed and deposited same in the box for United States

Mail at CHULAVISTA, CALIFORNIA:

ATTORNEY GENERAL  
300 SO. SPRING STREET, 5TH FL.  
LOS ANGELES, CA 90013

UNITED STATES COURTHOUSE  
ATTN: INTAKE/DOCKET SECTION  
312 NORTH SPRING STREET  
LOS ANGELES, CA 90012

I declare, under penalty of perjury, that the facts stated above are true and correct.

Date: July 31, 2008, 2008, at CHULAVISTA, CALIFORNIA.

Teresa Castillo  
TERESA CASTILLO, DECLARES  
(Declarant)



SHERRI R. CARTER

District Court Executive  
and Clerk of Court

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION  
312 North Spring Street, Room G-8 Los  
Angeles, CA 90012  
Tel: (213) 894-7984

SOUTHERN DIVISION

411 West Fourth Street, Suite 1053  
Santa Ana, CA 92701-4516  
(714) 338-4570

EASTERN DIVISION

3470 Twelfth Street, Room 134  
Riverside, CA 92501  
(951) 328-4450

Monday, August 04, 2008

LUIS COSTILLO  
C-73437  
P.O. BOX 5002  
CALIPATRIA, CA 92233

Dear Sir/Madam:

- A ☒ Petition for Writ of Habeas Corpus was filed today on your behalf and assigned civil case number CV08- 5082 VBF (FMO)
- A ☐ Motion pursuant to Title 28, United States Code, Section 2255, was filed today in criminal case number \_\_\_\_\_ and also assigned the civil case number \_\_\_\_\_

Please refer to these case numbers in all future communications.

Please Address all correspondence to the attention of the Courtroom Deputy for:

☐ District Court Judge \_\_\_\_\_

☒ Magistrate Judge Fernando M. Olguin

at the following address:

☒ U.S. District Court  
312 N. Spring Street  
Civil Section, Room G-8  
Los Angeles, CA 90012

☐ Ronald Reagan Federal  
Building and U.S. Courthouse  
411 West Fourth St., Suite 1053  
Santa Ana, CA 92701-4516  
(714) 338-4750

☐ U.S. District Court  
3470 Twelfth Street  
Room 134  
Riverside, CA 92501

The Court must be notified within fifteen (15) days of any address change. If mail directed to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the case with or without prejudice for want of prosecution.

Very truly yours,

Clerk, U.S. District Court

By: CPOWERS  
Deputy Clerk

91910

Chula Vista Ca.

295 C St #106

Teresa Castillo

7007 2580 0002 0254 5408



CERTIFIED MAIL<sup>TM</sup>

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

